

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1138

Original

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Pg 5

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

vs.

THOMAS JOSEPH CARROLL, VINCENT McCLOSKEY and
WILLIAM McCLOSKEY,

Appellants.

APPELLANTS' APPENDIX

Volume V, pp. 1201a - 1500a



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ment says "also known as Mike."

MR. MARTIN: If your Honor please, that may be what the indictment says, but I request that the witness be requested to answer directly.

THE COURT: He did. It was the attorney who didn't understand what he was talking about.

MR. MARTIN: I object to that.

THE COURT: You may sit down, Mr. Martin.

Go ahead, Mr. Hopper.

Q Do you recall seeing the defendant Vince McCloskey?

A I don't remember seeing him, no, sir.

Q Now, in that situation, on that day in court, seeing all of those defendants together for the first time, did you go over with anyone the refreshing of your recollection as to who all of the personalities were?

A No, sir.

Q You are certain that that did not happen?

A I am positive.

Q Have you discussed that specific subject with anyone in the last day or two?

A I don't think so.

Q Well, did you or didn't you?

A I don't think so.

Q Let's see if I understand what you also say here.

You, Geoffrey, Harry, the evening of April 5, all went to this tavern in Jersey, where you met Jack Turner, Tommy and Mike and discussed what had happened on that day, is that correct?

A Yes.

Q There has been some testimony, as you know, that you gave about hot faces. On that night of April 5, were not you and Geoffrey as hot as firecrackers?

A I don't think so.

Q This crime took place in daylight on a public street, at approximately the intersection of Beekman and Williams Street, is that not true?

A Right.

Q Had you heard from any sources that there were possibly as many as 20 people in the vicinity of that intersection at the time this crime was committed?

A I knew there was people around, yes, sir.

Q Going back to that June 7, 1973, statement, that you signed in the District of Columbia, you were questioned by two postal inspectors, is that correct?

A No. There were more than that.

Q How many would you say in all?

A I can't be accurate, but I would say about six.

Q Did they question you in relays?

1 A The questions more or less came from one person.

2 Q Pardon?

3 A The questions more or less came from one person.

4 Q Did they question you and Mann together?

5 A Yes, sir.

6 Q From the very beginning?

7 A Not from the very beginning.

8 Q Pardon me?

9 A Not from the very beginning. About an hour or
10 so after we had been taken to the post office.

11 Q When did you see Mann first on that day?

12 A He was at my apartment when we were arrested.

13 Q You were both arrested together?

14 A Right.

15 Q When you were taken to the post office, were you
16 split, were you separated?

17 A Yes.

18 Q You were questioned by someone?

19 A No.

20 Q Do you recall who?

21 THE COURT: He said no.

22 Q How long after questions were first put to you
23 did they join you up with Mann and question you both to-
24 gether?
25

redirect

A We were questioned together essentially from the beginning.

Q Did you talk to Mr. Kenney during the luncheon recess?

A Yes, I did.

MR. HOPPER: May I look through my notes for a moment, your Honor?

(Pause.)

MR. HOPPER: I have no further questions.

THE COURT: Mr. Kenney.

REDIRECT EXAMINATION

BY MR. KENNEY:

Q Mr. Myers, when you were questioned on June 7, 1973, by postal inspectors, were you shown any photographs?

A Yes, we were.

Q And how many photographs were you shown, if you recall?

A Well, I was shown a different amount of photographs in a series.

Q And how many --

MR. MARTIN: I object to this line of questioning as being --

THE COURT: It was brought out by Mr. Hopper on cross-examination.

SOUTHERN DISTRICT COURT REPORTERS

UNITED STATES COURT HOUSE

FOLEY SQUARE, N.Y., N.Y. 10007 TELEPHONE: CORTLAND 7-4500

1
2 MR. MARTIN: No, your Honor. He was testifying
3 about Paul Crawford. He wasn't testifying about any
4 pictures by this witness. May we approach the bench, if
5 your Honor please.

6 THE COURT: You may.

7 (At the bench.)

8 MR. MARTIN: If your Honor please, that question
9 by Mr. Hopper had to do with Paul Crawford's identification.
10 It has nothing to do with this witness.

11 THE COURT: What are you going into, Mr. Kenney?

12 MR. KENNEY: I draw the Court's attention to
13 Page 673 of the transcript, where similar questions were
14 asked by Mr. Martin yesterday, a series of questions, as to
15 whether he had not seen these people in the courtroom and
16 whether they had been pointed out to him, and so forth.

17 MR. MARTIN: Nothing about pictures.

18 (Pause.)

19 THE COURT: Objection overruled. You may ask
20 the question.

21 MR. MARTIN: May I have an exception on the record,
22 if your Honor please, and also move for a mistrial.

23 THE COURT: Denied.

24 MR. DIRENZO: Might I add to the objection, your
25 Honor, the fact that this is a pictorial identification as

distinguished from a previous personal identification?

THE COURT: I understand. It is for the jury.

MR. HOPPER: I don't recall that this witness' ability or his identification was challenged.

THE COURT: You were. You were clearly doing that, weren't you, on your cross-examination? If you didn't, I don't know what you were cross-examining for.

Go ahead, Mr. Kenney.

MR. HOPPER: I have my own purpose in doing that.

THE COURT: I know. Mr. Kenney has his own, too.

(In open court.)

BY MR. KENNEY:

Q Mr. Myers, from those photographs did you make any selection?

A Yes, I did.

Q And how many selections did you make?

A Three.

Q And who did you understand those people to be?

A Well, I identified one photograph as being a man named Tommie. The postal inspectors told me his name was Tommy Carroll. I identified one photograph as being that of Chester. They told me that his full name was Chester Crawford. And I identified a photograph as being Mike, and they told me that his last name was McCloskey. I

1
2 don't remember his first name.

3 MR. DIRENZO: I move that each of those answers
4 be stricken, if your Honor please.

5 THE COURT: Denied.

6 Q You have testified when you were speaking to
7 postal inspectors on June 7 of 1973 that you said to them,
8 "The job itself involved five people."

9 A Right.

10 Q Would you tell us who you meant by those five
11 people at that time?

12 MR. DIRENZO: Objected to.

13 THE COURT: Overruled.

14 A I mean Geoffrey Mann, myself, Jack, Mike and
15 Tommie.

16 Q And how in your mind did you distinguish ---

17 MR. HOPPER: Objection.

18 THE COURT: Overruled.

19 Q How in your mind at that time did you distinguish
20 those five people from others?

21 MR. DIRENZO: That is objected to, your Honor.

22 THE COURT: Overruled.

23 MR. DIRENZO: If your Honor please --

24 THE COURT: Overruled.

25 MR. DIRENZO: Can I set forth the ground?

1 THE COURT: No.

2 MR. DIRENZO: I yield.

3 Q How did you distinguish those five people in
4 your own mind from other people you have testified were
5 involved?

6 MR. DIRENZO: Objection.

7 THE COURT: Overruled.

8 A Well --

9 THE COURT: You brought it all out, Mr. Drenzo.

10 MR. DIRENZO: Oh, no, your Honor.

11 THE COURT: Oh, yes, you did.

12 Go ahead, Mr. Kenney.

13 MR. DIRENZO: Your Honor --

14 THE COURT: I have ruled, Mr. Drenzo.

15 You may proceed, Mr. Kenney.

16 MR. DIRENZO: I want to --

17 THE COURT: If you want to address the Court,
18 stand up.

19 MR. DIRENZO: I am sorry.

20 THE COURT: Don't continue arguing. I made the
21 observation that you brought it out on cross-examination.

22 MR. DIRENZO: I heard your Honor. All I am trying
23 to state is that the comments the Court is presently making
24 are comments that I feel I can make a legal argument to.

1
2 Your Honor has not permitted me to address
3 the Court on that specific area.

4 THE COURT: Right.

5 MR. DIRENZO: As to not standing, I apologize.
6 I would like to point out to your Honor that I am not creating
7 sympathy, take my word for it.

8 THE COURT: Then sit down and let's go on with the
9 trial. Everything you are saying, Mr. Direnzo, the jury
10 hears.

11 Please sit down and let Mr. Kenney continue.

12 MR. KENNEY: Your Honor, may we have the question
13 reread.

14 THE COURT: You may.

15 (Question read.)

16 A The five people I am talking about is the five
17 people of which on April 5th they were supposed to have a
18 certain function or operation that they were supposed to do.

19 Q You testified that Chester Crawford told you
20 he was part of a family or organization?

21 A Yes.

22 Q Do you recall anything that you have not told
23 us at this point about his relationship with that family
24 or organization?

25 MR. DIRENZO: Objection.

THE COURT: Overruled.

A He didn't say what type of organization or what type of family it was. He was saying it was an organization or family, something to that effect.

Q Do you recall --

MR. DIRENZO: Move that the answer be stricken, if your Honor please.

THE COURT: Overruled.

Q Do you recall anything else that he told you about his relationship with that family or organization?

A You mean his personal relationship?

Q Yes.

A He said he was the only black guy in it.

Q Now, Mr. Myers, you testified that on March 22 you met for the first time John Turner and Mike McCloskey.

A Yes, sir.

Q Can you tell us if prior to that time you had ever seen either one of those men before?

A I had --

MR. DIRENZO: Objected to, if your Honor please.

THE COURT: Overruled.

A I had seen them the previous day, but I didn't take any notice of them at that time because at that time I didn't know them.

Q Would you tell us where you saw them the previous day?

A They were standing by, I think, a bar, or a beer tavern, off of South Street.

Q And is that in Williamsburg or in the Wall Street district?

A Going toward the Wall Street district, right under that elevated highway.

MR. KENNEY: May I have just a moment?

(Pause)

MR. KENNEY: We have no further questions of this witness.

THE COURT: You may step down.

MR. DIRENZO: I have some recross, your Honor.

THE COURT: Sorry, nothing brought out on redirect that was new.

You may step down.

MR. MARTIN: I want to examine on recross also, if your Honor please.

THE COURT: Same ruling as far as you are concerned, Mr. Martin. You may sit down.

MR. MARTIN: I want to go into the working of the defendant's mind. He went into how his mind functions

to pick out the five.

THE COURT: That was all brought out by Mr. Dizenzo on his cross-examination. If counsel wishes to come and not make speeches in front of the jury, come right up here to the bench.

MR. DIRENZO: That is what I intend to do, your Honor, with the Court's permission.

(At the bench.)

MR. DIRENZO: It is my desire to ask this witness questions on recross which I feel were developed on redirect. Your Honor and I of course differ about the question of what I developed and did not develop. On my direct examination ---

THE COURT: On your cross-examination. You had no direct.

MR. DIRENZO: On my cross, rather. You are right, your Honor. On my cross-examination I talked about the specific allegation contained in the statement concerning five men who were to participate in a job. I did not ask him about his particular state of mind at that time.

THE COURT: Oh, you did. He told you why.

MR. DIRENZO: That is all right. He said it.

THE COURT: But you brought it out. You gave the opening for it and you didn't want to proceed then. It

1 doesn't give you the right to come back and recross, because
2 you don't get the last word.

3
4 MR. DIRENZO: Except this, your Honor. I think
5 I am entitled to ask him the question, and I don't like
6 to telegraph my question to the United States Attorney, with
7 reference to the five people explanation he gave on redirect
8 whether he didn't discuss this particular phase of it with
9 Mr. Kenney during the luncheon recess, and that is another
10 reason why I object --

11 THE COURT: No.

12 MR. DIRENZO: -- to a witness being permitted --

13 THE COURT: Sorry. You could have asked that
14 question. It happened to come out after the luncheon
15 recess by you, not before the luncheon recess, and you
16 didn't want to do it. But you opened the door. And when you
17 open the door, it doesn't give you the right to come back
18 last. You should exhaust your examination at that point.
19 And if you don't, you are out of luck.

20 MR. DIRENZO: All right. Your Honor and I, most
21 respectfully, disagree in this particular area. But I
22 want to reemphasize the point that this is one of the reasons
23 why a prosecutor should not be talking to a witness when
24 he is on cross-examination.

25 THE COURT: I am sorry. You brought the question

out after the luncheon recess, not before.

MR. DIRENZO: If he has that opportunity, we should be given the opportunity to go ahead and explain it away and show why he is changing his answer now.

THE COURT: I am not sure he is changing his answer. He is giving an explanation. That is for the jury. I have ruled, Mr. Drenzo.

Now what is your point?

MR. DIRENZO: Your Honor --

THE COURT: I am sorry.

MR. DIRENZO: Move for a mistrial --

THE COURT: Denied.

MR. DIRENZO: -- on the ground that cross-examination is being curbed at this point.

THE COURT: You didn't properly exhaust your cross-examination and now you are trying to take advantage of your failure to have asked the question when you did, Number 1. And Number 2, the examination about the five took place after luncheon recess, not before, contrary to your statement on the record three minutes ago.

MR. DIRENZO: I started to talk to him about that five.

THE COURT: It came out after.

Go ahead, Mr. Martin.

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Myers-redirect

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3 MR. MARTIN: My point is that the witness
4 elicited that this pertained, the five pertained, to the
5 day in question, that is, April 5, because each one had
6 an allocated responsibility. This was brought out by the
7 U. S. Attorney.

8
9 I wanted to find out whether this applied also
10 to Count 1 of the indictment conspiracy, because he specific-
11 ally limited it and said only to the day in question, that
12 is, April 5th.

13
14 The conspiracy count does not have anything
15 about April 5 for a specific act.

16
17 THE COURT: Same ruling.

18
19 MR. MARTIN: I think we are entitled to examine
20 on that.

21
22 THE COURT: Same ruling.

23
24 MR. HOPPER: My objection is to strike the testi-
25 mony on the grounds that the operation of his mind is
totally irrelevant. He was asked about specific questions and
answers he gave.

THE COURT: If there happens to be an apparent
inconsistency, how do you get the witness to explain it
unless you ask for the operation of his mind, Mr. Hopper?
Tell me, as a practicing attorney, how do you do it?

2 MR. HOPPER: When a specific question is
3 asked and answered by him, and that is the way the question
4 is directed at him, he is stuck with that fact.

5 THE COURT: If there is an inconsistency,
6 you have no right to explain an inconsistency that you
7 brought out.

8 MR. HOPPER: Not through the operation of his
9 mind.

10 THE COURT: Your motion is denied, too.

11 MR. DIRENZO: We want to add one other thing to
12 the record --

13 THE COURT: Next witness.

14 MR. DIRENZO: With reference to the photographs,
15 I think we ought to establish that there is a motion for a
16 mistrial predicated on the fact that it is obvious that
17 these must be mug shots, and that would be extremely pre-
18 judicial.

19 THE COURT: It is not obvious that it would be.
20 Your motion is denied.

21 MR. DIRENZO: I respectfully except.

22 (In open court.)

23 (Witness excused.)

24 THE COURT: Next witness, Mr. Kenney.
25

1 MR. KENNEY: Mr. Dexter.

2
3 MR. MARTIN: If your Honor please, before the
4 witness is brought out, may we approach the bench for one
5 second?

6 THE COURT: Yes.
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(At the bench.)

MR. MARTIN: This next witness is Mr. Mann?

THE COURT: Mr. Dexter is the next witness.

MR. MARTIN: Your Honor, when Mr. Mann was on his trip to New York he was arrested in New Jersey. We have been trying to find the record. I sent some people to see if we could get the court record where he was arrested and we have not been able to find one. Would the Court instruct the Assistant United States Attorney if he has the record in that case?

MR. KENNEY: He was not convicted. It is pending in Burlington County.

MR. MARTIN: I would like to see the record.

THE COURT: What record?

MR. KENNEY: We do not have the arrest record.

THE COURT: He says he does not have the record.

MR. MARTIN: Could I get a subpoena from the Court to get it?

THE COURT: I don't think it makes any difference.

MR. MARTIN: He says he was coming up here on the 21st of March to do certain things and he was arrested.

THE COURT: You can ask him.

MR. KENNEY: We do not have it. We will be happy

to issue a subpoena to get the record if your Honor orders.

THE COURT: Why is this relevant?

MR. MARTIN: I am assuming he came up on a certain date to participate in certain acts and he was arrested on that day.

THE COURT: Where did you get the date from?

MR. KENNEY: From the defendant.

THE COURT: Not from the arresting officer?

MR. KENNEY: We later checked it with the county.

THE COURT: Do you want to call them on the phone?

MR. MARTIN: Yes, Burlington County, in New Jersey?

MR. KENNEY: At the next recess I would give him any information I have relating to that particular arrest.

(In open court.)

GERALD DEXTER, resumed.

THE CLERK: The Court wishes you to know you are still under oath, Mr. Dexter.

THE WITNESS: Yes.

MR. KENNEY: May I question the witness, sir?

THE COURT: Yes.

DIRECT EXAMINATION CONTINUED

BY MR. KENNEY:

Q Mr. Dexter, I believe when you were here the

other day you told us you were a United States Postal Inspector?

A That is right.

Q On the 13th of June, 1973, you spoke to the defendant Robert Rippy in Wharton, Virginia?

A That is correct.

Q Will you tell us if anyone else was present at that time?

A Yes, Inspector Luker was also present.

Q Tell us to the best of your recollection what Mr. Rippy said to you and Mr. Luker, and what you and Mr. Luker said to Mr. Rippy.

MR. DIRENZO: Objection.

THE COURT: The same objection you made at the beginning?

MR. DIRENZO: Basically.

THE COURT: You have a continuing objection. The same ruling.

A In answer to questions that we asked Mr. Rippy about his involvement with the hijacking of the truck in New York, he told us that Paul Crawford came by his place on the 17th of March and told him that his brother, Chester, who lives in New York City, wanted Rippy to come up to New York to participate in the hijacking of a truck, and he

1 indicated that the take was going to be somewhere around
2 300 and 400 thousand dollars. And then again, two days
3 later I think it was, the 19th of March, Paul Crawford
4 came by again and told Rippy that his brother wanted to get
5 in touch with Rippy, and he gave him a number to call in
6 New York where Rippy could reach Chester. And Mr. Rippy
7 told us that he can't remember whether he called Chester
8 or Chester called him, but they did talk on that same day,
9 the 19th, and he said that he told both Chester and Paul
10 that he was not going to be able to come up to New York,
11 that he couldn't leave Washington area, but that he would
12 try to find somebody else to come up and do the job for him.

13 And on that same day, on the 19th of March, he
14 called Terry Myers, and Terry came by his house that same
15 night and he told Terry that there was a man in New York
16 who has a brother in D.C. that needed two strange faces
17 from out of town to do a job in New York, and he said
18 that Paul would be one of the men and that Terry would be
19 the other one, if he wanted it. And he told him that he
20 ought to go to New York and listen to what Chester had to
21 say, and he said that there might be a possibility that
22 there would be some front money in it for him.

23 And then the next day, which would be the 20th
24 of March --
25

1 mp
2 MR. HAFETZ: Is the witness reading from any
3 notes?

4 THE COURT: It doesn't look like that to me.

5 A (Continuing) The next day, which would be the
6 20th of March, Paul came by Rippy's house again and he met
7 Terry there, and they told Rippy that they didn't have the
8 money to make the trip up to New York, and Rippy said that
9 he gave Paul \$25 to make the trip, and they left from there
10 in Terry's car.

11 Then approximately three days later, on the 23rd,
12 Rippy recalled getting a collect telephone call from Paul,
13 who was either in New York or New Jersey -- he didn't know
14 which -- telling him that nothing went down. He told us
15 that he asked them to give him a call because he was
16 expecting to get something, get part of the take if it did
17 go down. Then he said he didn't hear from Chester again.
18 He tried to contact Chester one other time, and he spoke
19 to a woman, and he just left a message; he was not able to
20 get in touch with him. He said that he saw Terry one more
21 time, but that was in Washington, and Terry told him that
22 nothing had gone down. And other than that, that is about
23 the extent of the conversation we had that day.

24 MR. DIRENZO: I move to strike all of that testi-
25 mony as against Carroll.

1
2 THE COURT: On what ground?

3 MR. DIRENZO: Not connected.

4 THE COURT: I will take it subject to con-
5 nection.

6 MR. MARTIN: The same for the defendant Vincent
7 McCloskey.

8 THE COURT: Yes.

9 MR. DIRENZO: I also move for a mistrial at this
10 time.

11 THE COURT: Denied.

12 Q Was there anything else said by Mr. Rippy that
13 you can recall?

14 A Well, there is one thing that sticks out in my
15 mind --

16 MR. DIRENZO: Object to that as a characteriza-
17 tion.

18 THE COURT: Strike the characterization. I
19 would like to tell the jury at this time that as we stand
20 here what you have just heard the witness say applies only
21 to the defendant Rippy; it does not apply to the other
22 defendants who are standing trial before you.

2 THE WITNESS: Well, I recall during the time that
23 we were questioning Mr. Rippy he explained to us that he
24 had been reading up on the laws concerning conspiracy,
25

1 and he told us that he knew where a conspiracy began and
2 where it ended, and that we didn't have anything against
3 him, so he was not too worried about talking to us. He
4 said that the conspiracy ended when Terry came back to
5 Washington and told him that nothing went down, and then he
6 didn't see anybody else after that.

8 Q During the conversation did you take any notes?

9 A Inspector Luker took notes.

10 Q Did you subsequently review Inspector Luker's
11 notes?

12 A Yes.

13 Q Was there a summary typed up from Inspector
14 Luker's notes?

15 A Yes.

16 Q Did you review that summary?

17 A Yes.

18 Q Tell us when you reviewed it?

19 A It was on the afternoon of the 13th of June.

20 Q I show you what has been marked Exhibit 7 for
21 identification. Is that the typewritten summary which
22 you reviewed on that afternoon?

23 A Yes, it is.

24 Q Will you take a moment and look through that sum-
25 mary and tell us if it refreshes your recollection as to

anything which you have not testified to?

MR. DIRENZO: Objection.

THE COURT: Overruled.

A There is not anything else.

MR. KENNEY: I have no further questions of this witness, your Honor.

THE COURT: Mr. Hafetz?

CROSS EXAMINATION

BY MR. HAFETZ:

Q Mr. Dexter, may I see the notes that you took in this conversation with Mr. Rippy that day?

A Could you see the notes?

Q Yes.

A I believe you have a copy of the notes.

Q The notes --

THE COURT: He said he thinks you have a copy of them.

Q You are mistaken, sir. Do you have the notes with you?

MR. KENNEY: The witness has testified he didn't take any notes.

THE COURT: You mean the notes he took afterward?

MR. HAFETZ: May I clarify this point.

1
2 Q Mr. Dexter, did you take notes?

3 A No, I did not.

4 Q Did Mr. Dexter take notes?

5 A I am Mr. Dexter.

6 Q Excuse me. Did Mr. Luker take notes?

7 A Yes.

8 Q Do you have those notes with you?

9 A No.

10 Q May I see them, please?

11 THE COURT: He says he doesn't have them.

12 MR. HAFETZ: May I have the opportunity to in-
13 spect those notes?

14 MR. KENNEY: We have Mr. Luker's notes. They
15 are not within the section.

16 THE COURT: I suggest you turn them over.

17 MR. KENNEY: I will turn them over.

18 THE COURT: We will have a recess.

19 (Short recess.)
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(Jury present.)

THE COURT: Go ahead, Mr. Hafetz.

CROSS-EXAMINATION

BY MR. HAFETZ:

Q Mr. Dexter, approximately how long did you speak with my client, Mr. Rippy, on June 13?

A Close to an hour.

Q And Mr. Luker was there during that time?

A Yes, he was.

Q And he was the one taking notes.

A That's correct.

Q And was he taking notes with a pencil?

A I believe he was using a pencil. I couldn't say for sure.

Q And did he take notes from the inception of the conversation?

A Whenever he felt the need arose, he would take notes, yes.

Q So throughout the course of the approximate one hour conversation Mr. Luker took notes, is that correct?

A That is correct.

Q About how many pages of notes did he take?

A Two pages.

Q That was all he took in one hour?

- 1 jgh-2
- 2 A That's right.
- 3 Q Did he start taking notes right from the beginning?
- 4 A That's correct.
- 5 Q And after those notes were taken, how soon after-
- 6 ward was a statement typed up?
- 7 A Two or three hours later.
- 8 Q Who typed up the statement?
- 9 A One of our secretaries.
- 10 Q Did you compare the typed statement with the hand-
- 11 written notes?
- 12 A Yes, I did.
- 13 Q And they compared accurately?
- 14 A Yes, they did.
- 15 Q They were pretty much verbatim?
- 16 A What is that question? What was in the notes?
- 17 Q What was in the notes?
- 18 A Yes, sir, pretty much verbatim, yes.
- 19 Q Did you ask Mr. Rippy to sign the statement?
- 20 A No, we didn't.
- 21 Q You didn't. Did you show him the statement?
- 22 A No, we did not.
- 23 Q Had you participated in the questioning of Mr.
- 24 Myers several days earlier?
- 25 A No, I didn't.

Q Do you know Mr. Myers testified there were six agents who questioned him during the course --

THE COURT: He said no, he didn't.

Q Did you know that Myers had made a signed and sworn statement?

A No, I don't.

Q You didn't?

A No, I didn't.

Q You never heard that before?

A No.

Q Did you know that Paul Crawford had made a signed and sworn statement?

A No, I didn't.

Q Are you authorized to give an oath?

A Yes, I am.

Q Is Mr. Luker authorized to give an oath?

A He is.

Q And neither of you exercised that power on that day when questioning Mr. Rippy?

A Would you restate the question, please?

Q Did either of you exercise the power of administering an oath on the day that you questioned Mr. Rippy?

A No, we didn't.

Q At no time did you ask him to swear to the

1
2 A No, we didn't.

3 Q At no time did you ask him to sign the statement?

4 A No.

5 Q In fact, at no time did you show him the notes
6 and ask him if those were an accurate version of answering
7 that he was making?

8 A That's right.

9 Q That's right, meaning you never showed him the
10 notes.

11 A Correct.

12 MR. HAFETZ: May I have this marked for identi-
13 fication?

14 THE COURT: Yes.

15 (Defendant Rippy Exhibit G was marked for
16 identification.)

17 Q Mr. Dexter, it is your testimony, is it not,
18 that these notes, the notes that Mr. Luker took and which
19 you looked at, are an accurate statement of what Mr. Rippy
20 said, is that correct?

21 A That is correct.

22 Q I ask you to take a look at these notes (handing).
23 Just hold them by your side for a minute.

24 Now, in your direct testimony you stated that
25

1 Mr. Rippy told you that Chester Crawford had asked him
2 to take part in hijack in New York, is that correct?

3 A That's correct.

4 Q Look at those notes, sir, and tell me where you
5 find the word "hijack."

6 (Pause.)

7 A It is not on there.

8 Q Pardon me?

9 A The word "hijack" is not used.

10 Q It is not in that statement, is it?

11 A No, it is not in the notes.

12 Q Is there anything in those notes that refers
13 to a planned robbery of a truck of any kind?

14 A He just refers to Chester asking him to do a job.

15 Q A job.

16 A That's right.

17 Q No mention of a truck robbery, is there?

18 A Not in the notes.

19 Q In fact, is there any mention of a robbery or
20 a stickup or a holdup in those notes?

21 A Not in the notes, no.

22 Q But you did put that in the typed statement which
23 you made later.

24 A That's correct.

Q And you did testify that the typed statement was a verbatim or virtually verbatim --

THE COURT: No, he didn't.

A I am sorry?

Q -- or near verbatim transcript of the notes, is that correct?

A That's correct.

Q On direct examination you stated that Mr. Rippey said to you that Chester Crawford was well known to him. Would you look in those written notes and tell me where that phrase is found?

(Pause.)

A It doesn't appear in the notes.

Q It doesn't appear there?

A I don't believe I testified to that on direct either.

Q It is in the typed statement, though, isn't it?

A That's correct.

Q You testified on direct examination that Mr. Rippey told you that he had told Paul and Chester Crawford that he could not leave the Washington area but that he would try to get someone else to do the job, is that correct?

A Correct.

Q Tell me where in that written near verbatim,

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those written notes of which the typed statement is a near verbatim transcript you find Mr. Rippe stating that he could not leave Washington and that he would try to get someone else to do the job?

(Pause.)

A It is not in the notes.

Q It is not in there either.

You mentioned on direct testimony, when Mr. Kenney showed you the near verbatim transcript, typed statement of the notes, when you looked at that typed statement Mr. Kenney asked you if you had forgotten anything and you said you had thought that there was one or two things that was significant, is that correct, and that some -- and that was some explanation that Mr. Rippe had given about the law of conspiracy?

MR. KENNEY: Objection.

THE COURT: That was stricken at your request.

MR. HAFETZ: I am now inquiring on it. It wasn't my request, your Honor.

THE COURT: It was stricken from the record. If you want to put it back in the record, you can put it back.

Q I am now asking you, Mr. Dexter, did you not say this morning, or earlier this afternoon, that you thought there was something significant that was not in the typed

statement and that was a statement that Mr. Rippy said setting forth some understanding he had of the law of conspiracy?

MR. KENNEY: Objection. My recollection is that the statement as to what was significant was said before the witness saw the exhibit, the typewritten statement.

THE COURT: Do you want that checked, Mr. Hafetz?

MR. HAFETZ: No.

Q Do you have that typed statement before you, Mr. Dexter?

A Yes, I do.

Q You looked through that typed statement?

A Yes.

Q Did you not say earlier today that you thought there was something significant that did not appear in the typed statement, and that was a statement by Mr. Rippy about some understanding he had of the law of conspiracy?

A I was asked if there was anything else I remembered that was discussed on that day, and that happens to be one thing that I remember. I don't know if it is significant or not.

Q You stated you thought it was significant, didn't you, earlier today?

MR. KENNEY: Objection. The record speaks for

1 jgb-9
2 itself. He did not use the word "significant."

3 THE COURT: I forget the exact word he used,
4 but I know one of the defense counsel wanted it excluded
5 and I excluded it.

6 MR. KENNEY: He said it struck him.

7 Q When I say significant, some word equivalent
8 to that.

9 A It is something that I recall from the conversa-
10 tion, yes.

11 Q Something that you thought that was important.

12 A Yes.

13 Q Would you look at those written notes again,
14 Mr. Dexter, and tell me where in those written notes you
15 find that point that you consider important, Mr. Rippy's
16 statement about his understanding of the law of conspiracy?

17 A It is not in here.

18 Q It is not in there. And it is not even in the
19 typed statement, is it?

20 A That's correct.

21 Q You just happened to remember that from six
22 months ago?

23 A That's correct.

24 Q It stuck in your mind. Got any notes to refresh
25 your recollection since then other than Mr. Dexter's

statement, I mean Mr. Luker's statement.

A No, I don't.

Q Is it customary for postal agents when they take a statement to ask the person from whom they are taking the statement to sign it?

A If it is a written statement and he agrees to it, yes. He was asked -- we explained or went over the notes that were taken and he was asked several times if it was a correct version, you know, asked the same questions many times, and he didn't hesitate to answer the same way each time.

Q My question is, is it customary, when you take a statement from a person, to ask them to sign that statement?

A Yes.

Q Did you ask Mr. Rippey to sign that statement?

A The statement --

Q Yes or no, Mr. Dexter.

A There was no statement at the time we were talking to Mr. Rippey.

Q Those written notes were not a resume of what he was saying?

A They were notes, yes. He was not asked to look at the notes.

Q He was not asked to look at that and sign it,

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1 if it was accurate?

2 THE COURT: I think you better distinguish
3 here between the handwritten notes of the other postal
4 inspector and the typewritten statement or notes of the
5 witness.
6

7 Q Let's take the handwritten notes. Those, to your
8 knowledge, and as far as you know to Mr. Luker's knowledge,
9 were an accurate version of what Mr. Rippy was saying?

10 A That's correct.

11 Q But you did not show that to him and ask him
12 to sign them.

13 A No, I didn't.

14 Q Did you ask a stenographer to accompany you to
15 interview Mr. Rippy?

16 A No, I didn't.

17 Q Did you call for a stenographer after you had
18 interviewed Mr. Rippy?

19 A You mean --

20 Q A stenographer to come with you and then question
21 Mr. Rippy under oath.

22 A No, we didn't.

23 Q You made no effort of that kind whatsoever, did
24 you?

25 A No, we didn't.

Q Mr. Dexter, how long have you been a postal agent?

A Two years and four months.

Q When we say a postal agent, this means the law enforcement type, not the mail carrier nor the truck driver but a gun-carrying law enforcement agent, is that correct?

A That is correct.

Q Do you have a manual of procedures?

A Yes.

Q Does the manual say anything about attempting to get a signed statement at the time of interview from a suspect?

A What manual are you referring to?

Q That manual that governs the special agents or the post office agents in the performance of their law enforcement duties.

A It is always better to have a signed statement. If it is impossible at the time, no, you don't have to have a signed statement.

Q What was impossible about getting a signed statement on that date?

A Well, we didn't have anybody to take a statement for us.

Q You didn't have a pen to hand Mr. Rippey and tell

1 him to look at it and sign it if it was accurate?

2 A Yes, we did.

3 Q Did Mr. Rippy indicate that he did not know how
4 to read?

5 A No, he did not.

6 Q So it was your choice that day not to follow the
7 better procedure, is that your testimony?

8 A We did not show him the notes to have him sign
9 it.

10 Q Before you went to see Mr. Rippy that day, had
11 you been given some information about the case?

12 A No, I hadn't.

13 Q Had Mr. Luker, to your knowledge?

14 A Mr. Luker was working with the postal inspectors
15 from New York all along in the case.

16 Q And Mr. Luker knew that Mr. Myers had made
17 a statement, is that correct?

18 A I couldn't answer that.

19 MR. KENNEY: Objection as to what Mr. Luker knew.

20 THE COURT: He says he doesn't know.

21 Q Did Mr. Luker discuss the case with you before
22 you went to interview Mr. Rippy that day?

23 A No, he didn't.

24 Q Did Mr. Luker, before you and he interviewed
25

1 Mr. Rippy that day, indicate in any way that he had had
2 some knowledge that \$300,000 was involved in the New York
3 job?
4

5 A He didn't discuss any of the figure or anything.

6 Q In Mr. Luker's questioning of Mr. Rippy on
7 that day, did Mr. Luker indicate that he had some knowledge,
8 that Mr. Luker had some knowledge that a \$300,000 job
9 had been talked about in New York?

10 A No, he didn't.

11 Q Do you have any notes to refresh your recollection
12 on that?

13 A No, I don't.

14 Q So you are speaking now just from cold memory
15 from six months ago, is that right?

16 A That's correct.

17 Q In fact, are you sure, Mr. Dexter, that in Mr.
18 Luker's questioning of Mr. Rippy that Luker did not mention
19 \$300,000?

20 A He did not bring up any figure, no.

21 Q You are positive on that?

22 A Yes, I am.

23 THE COURT: Mr. Hafetz, you may sit down
24 a minute. I am going to ask the jury to sit here. I have
25 another matter to take up.

THE COURT: All right, Mr. Hafetz. You may continue.

BY MR. HAFETZ:

Q Mr. Dexter, do you, yourself, usually take notes when you interview someone on a case?

A If it is my case, my investigation.

Q Were you instructed not to take notes when you interviewed Mr. Rippy?

A There were no instructions. He just was taking notes and I was there to make sure that everything that was said was correct, or to be a witness to everything that was said.

Q This was June 13, is that correct, when you took the statement, or rather when you spoke to Mr. Rippy?

A That's correct.

Q Did Mr. Luker read to Mr. Rippy from a statement made by Mr. Myers?

A I am not sure. I couldn't say for sure.

Q Excuse me?

A I am not sure.

Q Is it your testimony that it is possible that Mr. Luker could have read from a statement from Mr. Myers?

MR. KENNEY: Objection.

THE COURT: Overruled.

A Well, it is possible. I am not sure if he did or not.

Q Do you know if Mr. Luker read from a statement made by Paul Crawford when he questioned Mr. Rippy?

A Again, I don't know if he read from a statement or not.

Q Is it possible that he did?

A It is possible that he did.

Q Mr. Dexter, approximately how many postal agents were assigned to the investigation of this case?

A From Washington, D. C.?

Q Total, New York, Washington.

A I have no idea.

Q How many from Washington?

A There was one inspector that worked full time with the New York inspectors.

Q And do you know how many New York inspectors?

A No, I don't.

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Q Have you ever worked before on a case in which a post office official was killed?

A No, I have not.

Q Had Mr. Luker, to your knowledge?

A I couldn't say.

Q This was a major case, was it not?

A Yes, it was.

Q You say the post office was vitally interested in this case?

A The post office is vitally interested in all of its cases.

Q There was a post office employee, in fact, a gun-carrying post office employee, who was killed in this case? Is that correct?

A That is correct.

Q Did that awaken the interest any more than in the ordinary course of postal investigations?

A It's a very serious investigation.

Q What is your rate level, Mr. Dexter?

A It is PS19.

Q What was it prior to June of this year?

A Well, they just changed over to a new system of rating. It was a level 10, I believe, under a different system of rating.

Q Have you had any salary increase since June?

A Yes, I have.

Q Has Mr. Luker had any salary increase?

A No, he has not, to my knowledge.

Q Do you know if any letters of commendation have been written for any of the postal agents who participated in this case?

MR. KENNEY: I am going to object to this line of questioning, your Honor, as irrelevant.

THE COURT: Sustained.

MR. HAFETZ: I have no further questions.

MR. DIRENZO: No questions.

MR. MARTIN: No questions.

MR. HOPPER: No questions.

THE COURT: Any redirect?

MR. KENNEY: Yes, very short.

REDIRECT EXAMINATION

BY MR. KENNEY:

Q Where are you presently stationed?

A Washington, D.C.

Q And where is Mr. Luker presently stationed?

A New Orleans, Louisiana.

Q Do you have, as you testified here today, a recollection of what was said on June 13, 1973?

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MR. HAFETZ: I object as improper redirect.

THE COURT: Overruled.

A Yes, I do.

Q Have you testified from that recollection as to what was said?

A Yes, I have.

MR. KENNEY: I have no further questions.

THE COURT: You may step down.

MR. DIRENZO: May I ask one question predicated on the redirect, your Honor?

THE COURT: Yes.

RECROSS EXAMINATION

BY MR. DIRENZO:

Q Did you state that you jogged your recollection by reading Mr. Luker's statement that he prepared?

A Did I say that?

Q Did you say that?

A Yes.

Q And was it what Mr. Luker had written in his notes that refreshed your recollection?

A Not refreshed my recollection. I read them over to make sure that they are accurate and that is how I interpreted the discussion that day.

Q Predicated on that you decided they were ac-

curate after comparing them with the original notes? Is that correct?

THE COURT: I am sorry. You asked him whether he read the original notes. Luker's notes are the original notes.

Q You read some original notes in connection with that statement, didn't you?

THE COURT: What statement?

MR. DIRENZO: The statement he had before him that he used to refresh his recollection.

THE COURT: He didn't have any statement before him on direct examination to refresh his recollection.

MR. DIRENZO: On cross-examination he had a report.

THE COURT: He had two statements before him. That is why I asked you to delineate them.

Q Let's take the handwritten notes and the typewritten report. The handwritten notes were written prior to the typewritten statement?

A That is right.

Q And you compared, did you not, the handwritten notes against the typewritten report?

A I was shown a copy of the statement as it was typed out after the interview to see if it was correct from what I remembered, and I signed it to indicate that, yes,

1
2 that is what we talked about on the day that we discussed
3 this matter.

4 Q And that statement was as accurate as the type-
5 written notes? Correct?

6 A I am talking about the typewritten statement,
7 yes.

8 Q And they were as accurate --

9 THE COURT: Mr. Direnzo, this is not recross examina-
10 tion. Mr. Hafetz brought that all out on his cross-
11 examination.

12 MR. DIRENZO: He did a better job than I could
13 hope to.

14 THE COURT: Then you should not have wasted our
15 time.

16 You are excused.

17 (Witness excused.)

18 MR. KENNEY: Mr. Mann.

19 THE COURT: Mr. Direnzo, I understand you want a
20 bench conference?

21 MR. DIRENZO: Yes, sir.

22 (At the bench.)

23 MR. DIRENZO: I have been advised since we are
24 going to work until 6.30 --

25 THE COURT: 6.15 --

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MR. DIRENZO: -- I understand that the defendants will not be fed at the correctional institution and that there is not any food here. But the marshals did indicate to me that if we got them sandwiches they would have an opportunity to eat them before they got them back to West Street. So in accordance with that, they said if they get a direction from the Judge, they will do that. If that is your direction, I will ask someone to go out and get them sandwiches.

THE COURT: It is all right with me.

Do you have any objection?

MR. KENNEY: No.

THE COURT: Whichever way the marshals want to handle it, okay.

(In open court.)

1
2 G E O F F R E Y M A T T H E W S M A N N, called
3 as a witness on behalf of the government,
4 being first duly sworn, testified as follows:
5

6 DIRECT EXAMINATION

7 BY MR. KENNEY:

8 Q Mr. Mann, will you tell us what your home address
9 is?

10 A 3713 Wheeler Road, Washington, D.C.

11 Q You have been indicted in the present case?
12 Is that right?

13 A Yes, sir.

14 Q And you pleaded guilty to second degree murder?
15 Is that right?

16 A Yes, sir.

17 Q In return for your plea to second degree murder
18 or in connection with your testifying here today, has the
19 government promised you anything?

20 A Yes.

21 Q Tell us what your understanding is of what the
22 government has promised you.

23 A They won't prosecute the other two counts on the
24 indictment.

25 Q Anything else?

A That cooperation will be made known at the time
of sentencing.

Q Now, on the 21st of March, 1973, you were arrested in New Jersey? Is that right?

A Yes, sir.

Q Would you tell us what you were arrested for?

A Possession of a dangerous weapon.

Q Is there a charge outstanding on that case in the State of New Jersey?

A Yes, sir.

Q Do you have any understanding as you are testifying here today that the government would do anything with regard to that charge?

A No, sir.

MR. KENNEY: May I have this marked Government's Exhibit 13 for identification.

(Government's Exhibit 13 marked for identification.)

MR. KENNEY: Your Honor, this is the original of McCloskey's Exhibit A, if I may use it in this way.

Q Mr. Mann, I show you what has been marked Government's Exhibit 13 for identification and ask you if you can identify it?

A Yes, sir.

Q Will you tell us how you identify it?

A Well, my initials are on it and I remember

reading it.

Q Will you look at the second page. Does your signature appear on the second page?

A Yes, sir.

Q I show you McCloskey's Exhibit A and ask you to look through that letter.

Now, can you tell us if McCloskey's Exhibit A is identical to Government's Exhibit 13 for identification, except for the names of the defendant and the lawyer?

A This is Crawford.

Q You are saying that McCloskey's Exhibit A is addressed to and mentions Crawford?

THE COURT: The one you have in your hand now mentions Mr. Crawford?

A Yes.

Q Is that identical, except for the name of the defendant and the lawyer, with Government's Exhibit 13?

A Yes.

Q As you testify here do you know that you have been granted immunity from the use of anything that you say here in any prosecution in the State of New Jersey for robbery which occurred on March 23, 1973?

A Yes, sir.

MR. MARTIN: I am going to object to the form

1 of that question and the summing up by the United States
2 Attorney, and the notation that something did take place.
3 I would ask that it be clarified.
4

5 THE COURT: I don't think there is anything to
6 clarify. There are three witnesses who have already
7 testified that they participated in that, and I have told
8 the jury in front of two prior witnesses that they obtained
9 immunity. So I think this is the third man that is coming
10 in on the same thing.

11 MR. MARTIN: That is assuming that it is
12 accurate and true.

13 THE COURT: I will not make any further clarifi-
14 cation of the facts for the jury.

15 Q Mr. Mann, as you sit here today do you under-
16 stand that you will not be prosecuted for that offense
17 in the State of New Jersey?
18

19 MR. MARTIN: We renew the objection, if your
20 Honor please.

21 THE COURT: Objection overruled.

22 A Yes.

23 Q Now, directing your attention to March 20,
24 1973, did you have a conversation on that day with Terry
25 Myers?

A Yes, sir.

Q Was that in person or on the telephone?

A On the telephone.

Q What time of day was that conversation?

A Approximately 11.00 p.m. at night.

Q Would you tell us what you said to him and what he said to you?

A Well, I answered the phone. He said he wanted me to come to New York, he had something for me to look at.

Q Did you have any other conversation?

MR. MARTIN: Objection. If your Honor please, these objections to these conversations are running objections?

THE COURT: Obviously.

Q Was anything else said?

A He just gave me an address and I told him I would be up there around 11, 12 o'clock the next day.

Q And the next day, March 21, 1973, did you go any place?

A Yes. I left home approximately 5 o'clock in the morning.

Q When you say "home," you are referring to Washington, D.C.?

A Yes.

Q Was there anyone with you when you left?

A No.

Q How did you leave?

A In my car.

Q Where did you go?

A Well, to New Jersey. I got stopped. And then after I left there I went to the Holiday Inn, near the Holland Tunnel in New Jersey.

Q What time did you arrive at the Holiday Inn?

A Approximately one o'clock p.m.

Q When you reached the Holiday Inn did you meet anyone there?

A Terry Myers and Paul Crawford.

Q Did you meet them inside the Holiday Inn or outside?

A In the parking lot.

Q Had you met Paul Crawford before then?

A No.

Q Did you have any conversation in the parking lot at the Holiday Inn?

A Terry said, "What had happened?" I gave him a rundown on how I got stopped. Then he said to follow him.

Q Was that the arrest for the possession of a weapon about which you have testified?

A Yes.

Q Did you go any place from the Holiday Inn?

A Yes, I followed him and he took me to the tunnel, over a bridge, and to what I believe is called the Williamsburgh Bridge section of New York.

Q Was there anyone in your car with you?

A No.

Q Was there anyone in Myers' car with him?

A Just Paul Crawford and himself.

Q When you reached Williamsburgh what did you do?

A I parked my car by some bank and I got into Terry's car, and then the three of us drove to South Third Street. We parked there.

Q Where is South Third Street in relation to Williamsburgh, if you know?

A In the same area, I believe.

Q When you reached South Third Street, did you meet anyone?

A Not for a couple of hours. Then Chester Crawford came, and I was introduced to him then.

Q During that period of time before the arrival of Chester Crawford did you do anything?

A Well, they ate lunch, and Terry gave me a brief rundown of what he knew at the time.

Q Can you tell us if you recall where you got lunch?

A It was at a delicatessen on South Third Street. I don't know the name of it.

Q When Chester Crawford arrived did you have a conversation?

A Yes. I got out and came back and Terry introduced me. Then he said to come up and ride with him. And so I did. He was taking us back over the bridge to Manhattan. And while there he asked me, first of all, did I mind working with whites. And I told him no. He said, "Well, this is an organization job." He said, "It is Federal; it is a mailtruck," and that they had inside information, and, also, if anything did go wrong, they had lawyers and bondsmen to take care of it. He was going to show me the area and see how I liked it.

Q Would you tell us who was in the car with yourself and Chester?

A Just the two of us.

Q Do you know where Terry was?

A He was following us with Paul.

Q Did you say following with Paul?

A Yes, Paul and Terry were in the same car.

Q Where did you go?

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A We went down to the dock area, South Street,
I think Maiden Lane, I believe it was.

Q Was this in Manhattan, if you know?

A Yes, I believe so.

Q When you reached the Maiden Lane area did you do
anything?

A We stopped and Terry and Paul came up and got
into Chester's car. Chester went out and talked to somebody
in the street, then came back to the car.

Q Did you know the people he talked to on the
street?

A No, I didn't.

Q Was he speaking to one person or more than one
person?

A Just one.

Q Did you subsequently meet that person?

A Yes.

Q Will you tell us who that person is?

A Tommy Carroll.

Q Do you see him in the courtroom here?

A Yes, sir.

Q Point him out.

A The fellow with the beard and the glasses.

MR. KENNEY: May the record show that he has

identified the defendant Carroll?

MR. DIRENZO: Yes.

Q After you saw Mr. Carroll on the street what else did you do?

A Chester came back and he says he is going to take us over the route that the truck was going to follow, which he did. We circled the block and came back down to Maiden Lane. Then he said he was going to wait and see, show me what the truck looked like, and five or ten minutes later the truck came by and he pointed it out.

Q What did the truck look like?

A It was a 5-ton post office truck.

Q What color was it?

A Well, it was silver body and blue, red-striped.

Q Did it have any writing on the side?

A U.S. Mail.

Q After you saw the post office truck did you do anything else at Maiden Lane or in that area?

A We just went to where the Federal Reserve Bank is. Then we kept on going and came back to Maiden Lane. And then we stayed in Chester's car, and Terry and Paul got into Terry's car, and we went back over to Williamsburgh to get my car.

(Mary Mogel, the attorney for Mr. Mann, takes a seat near the witness chair.)

Q After you got in your car did you go any place else?

THE COURT: Pardon me.

Did you say that Chester took you over the route that the truck was going to follow? Or did he merely point the truck out to you and you followed the truck?

THE WITNESS: We followed the truck. We saw it going to the Federal Reserve Bank. Then we came on back to Maiden Lane. We didn't wait until it came back up.

Q After you got your car did you go any place?

A Yes, we went over to New Jersey.

Q And where in New Jersey did you go, if you know?

A It was a tavern somewhere in New Jersey off the routes of 1 and 9.

Q Did any other cars go through that tavern at that time?

A It was Chester's car and my car.

Q When you reached that tavern tell us what you did.

A I got out and went to Terry's car and talked to Paul.

Q What did Chester do?

A .. Chester went into the tavern.

Q Did Terry do anything?

1
2 A Chester came back out then. He and Terry went
3 in for a few minutes. Then he came back out.

4 Q Now, after Terry came out did you have any
5 conversation with him?

6 A No, he just told me we were going to the motel
7 to check in for the night.

8 Q Did you go to a motel?

9 A Yes.

10 Q What was the name of that motel?

11 A The Lincoln Motel.

12 Q Was that in New Jersey or New York?

13 A New Jersey.

14 Q Did you stay at that motel that night?

15 A Yes.

16 Q Tell us who else stayed at the motel with you?

17 A Terry Myers.

18 Q Where did Paul Crawford go from the tavern, if
19 you know?

20 A He went with Chester.

21 Q Could you tell us what day of the week you have
22 just been testifying about it was, March 21, 1973?

23 A That was a Wednesday.

24 Q On Thursday, the next day, March 22, 1973, did
25 you meet with Chester Crawford?

1
2 A Yes.

3 Q What time of day did you meet with him?

4 A This was early morning, around 8, 9 o'clock.

5 Q Did anyone else meet with Chester?

6 A Well, Paul was with him, and Terry and myself.

7 Q After you met with Chester did you go any place?

8 A Yes.

9 Q Tell us where you went.

10 A We went to a diner within one or two miles of
11 the place.

12 Q How did you get to the diner?

13 A I went with Chester and Terry had his car.

14 Q How did Paul go?

15 A He was with Chester also.

16 Q When you reached the diner did you go any place?

17 A No. I stayed in the car.

18 Q Did any of the four of you go into the diner?

19 A Chester and Terry went in the diner. Paul
20 went in the diner to get some coffee or something.

21 Q Did you meet anyone at the diner?

22 A No.

23 Q Did you see anyone other than the three people
24 you testified about?

25 A Yes.

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Q Who did you see?

A Who I later found out to be Jack.

Q Do you know Jack's last name?

A Turner.

Q And where did you see him?

A He drove up in a station wagon or something and he was talking to Chester.

Q Where was he talking to Chester?

A Right outside the diner.

Q When you say, "Outside the diner," was he on the sidewalk or could you describe more fully where he was?

A There is a little passageway in the diner. There are phones out there. So Chester was waiting by the phone. I saw him talking to him.

Q Did you see anyone else at the diner?

A No.

Q Would you tell us what Jack did?

A Well, Jack came out and got in his car and drove off somewhere.

Q After Jack left, what did you do?

A Well, the three of them came back over to the car, drank some coffee. Then Chester said that they had a little job to do, and then Terry said they had something lined up, a payroll job. He said we were going to see what it looks like.

MR. DIRENZO: Objected to, your Honor.

THE COURT: Overruled.

Q Was there any other conversation in the car outside the diner?

A Chester said we were going to take a little trip over to a lot, that's where we were going to meet two other fellows.

MR. DIRENZO: Take a trip over to --

THE COURT: To a lot.

A To a lot.

Q And where did you go from the diner?

A We traveled about five or ten minutes and went to a dirt lot with a trailer on it.

Q How did you get from the diner to the dirt lot, if you recall?

A In Chester's car.

Q And where was --

MR. KENNEY: I'm sorry. May I withdraw that, your Honor?

Q Did you say that you went to the diner in two cars?

A No. We got Terry's car back at the motel.

Q And were you in Chester's car at the diner?

A Right.

Q And when you arrived at the dirt lot, did you meet anyone?

A Yes. Two people.

Q And who were they?

A Jack and another fellow, Mike.

Q And do you know Mike's last name?

A McCloskey.

Q Do you see Mike McCloskey in the courtroom today?

A Yes, I do.

Q Would you point him out for us?

A The fellow there with the green on.

MR. MARTIN: Pointing to the defendant Vincent McCloskey.

Q Did you see how Mike and Jack got to the dirt lot?

A They were in a blue Chevrolet, blue-green Chevrolet.

Q And was that a sedan or a station wagon?

A Sedan.

Q Now, when you were at the lot, did you have a conversation with either Jack or Mike?

A Yes.

Q And where was that conversation?

1 A Well, in the vicinity of both cars. We more
2 or less walked back between both, the two of them.

3 Q Now, would you tell us, if you can recall,
4 what Jack said and what Mike said?

5 A Well, Jack came over. That's when Chester
6 introduced us. And Chester said that Jack was the fellow
7 who was going to drive the mail truck where we took it.
8 And he said he was supposed to disarm the people. And
9 also then Jack said, well, they had a little something
10 planned for today if we wanted to do it.

11 Let me think. Oh, he said that it would be
12 about 11:00 o'clock when we could do this other job.
13 So that was just about the general conversation. I didn't
14 talk to Mike at all.

15 Q How long were you at the lot?

16 A Approximately fifteen, twenty minutes.

17 Q Was there anything on the lot?

18 A Just like an old house trailer.

19 Q Now, did there come a time when you left the lot?

20 A Well, first Mike and Jack left the lot to see
21 if a guy --

22 MR. MARTIN: Objection, if your Honor please.

23 THE COURT: Why?

24 MR. MARTIN: As to their intention as to what
25

they went to do.

THE COURT: Overruled.

Q Would you continue your answer, please?

A Yes. Mike and Jack left the lot to go see if the fellow who had the payroll had left his plant. So they left and they came back in about five minutes to say that Carroll was still there.

So we waited there approximately twenty minutes to a half-hour and we saw the car go, with two people in it. So then we took out after them. So we followed them.

Q How many cars followed?

A There was two cars following them.

Q And which car were you in?

A I was in Chester's car.

Q And who else was in that car?

A Paul Crawford, Terry Myers, Chester Crawford and myself.

Q And Jack and Mike were in the other car?

A Yes.

MR. MARTIN: I object to him leading, if your Honor please.

THE COURT: Overruled.

Q Now, would you tell us, when you followed the

car, where did you go?

A First of all, he went on the New Jersey turnpike for a couple of exits and the fellow we were following, he turned off. Then he went a little bit further and turned off again and he dropped the other fellow out. Then he turned around and headed back to where the bank was.

Q And when you reached the area where the bank was, what did you do?

A Well, we saw the car that the fellow was in. It was empty. So we pulled down about half a block and Terry and I got out of the car and went back past the bank, and we stood around for about two minutes and we saw the fellow come out with a money bag.

Q And how did you know which fellow was the fellow you were looking for?

A Well, he was described to us. Plus, he was headed for the bank -- headed for the car after he left the bank.

Q Who described him to you?

A Jack described him.

Q And would you tell us what you did after you saw the man coming out of the bank?

A We were waiting for him to cross over to his

car. Then we turned around and stuck him up.

Q And when you say you "stuck him up," would you tell us just what you did?

A Well, I was using a flanking maneuver. Terry approached him from the right front and told him to stop. So he looked, and I came to my left so he wouldn't run off that day. So then Terry told him "turn around," and he opened the car door, get in the car, and move over to the passenger side.

I got into the back. Then Terry got in on the driver's side and handed me the pistol. I put the pistol in my pocket and then Terry handed me the money and then Terry proceeded to take off in the car.

We drove about half a mile. Then we made a turn, went down by some warehouses. Terry pulled over and during that time I had searched him to make sure he didn't have any weapon.

Q When you say "him," are you referring to the victim of this robbery?

A Yes.

And then we stopped. Terry took him out and had him walk down the side of a warehouse. By that time Chester came and stopped. We ran to the car, got in and left the area.

Q Would you tell us how you knew where or how Myers knew where to drive, if you know?

MR. MARTIN: I object to that, if your Honor please.

THE COURT: Sustained.

Q Were you present at any conversation relating to what you and Myers would do after you put the man in his car?

MR. DIRENZO: Objected to, if your Honor please.

THE COURT: Overruled.

A All this was discussed on the lot. This was all part of the planning.

Q And do you recall who indicated where you should drive?

A Jack and Chester.

Q Now, after you got in the car with Chester, where did you go?

A Well, first of all, before we got out the area, a train was coming, so we stopped and I got out of Chester's car with the money and the pistol and went back into Mike's car.

Q And who was in Mike's car?

A Mike, Jack and myself.

Q And would you tell us who was in Chester's car when you got out?

A Chester, Terry, Paul.

Q Now, after you got in Mike's car, where did you go?

A Well, again, they took us past the bank to an area of another tavern, which was about a mile away from the other one.

Q And when you say "the other one," what tavern are you referring to?

A I don't remember the names of any of them.

Q When you say "the other one," had you ever been in that tavern?

A I was in both of them at one time or other.

Q When you say "the other one," are you referring to the one that you had stopped in front of the night before?

A Yes.

Q Now, when you reached the second tavern, what did you do?

A Well, Terry and I changed clothes and then Terry, Chester, Mike and Jack went somewhere to count the money.

Q And did you see Terry, Chester, Mike and Jack

again that day?

A Yes.

Q When was that?

A Approximately an hour later.

Q And while you were waiting for them, was there anyone with you?

A Paul was with me.

Q And after you saw the four of them again, what did you do?

A Well, I didn't see Mike and Jack again at that time. It was Chester and Terry. So we got in the car and then we went back to the motel to get out cars. That's when he gave me my share of the money.

Q How much was your share of the money?

A Approximately \$2,400.

Q Did you give any of that to anyone else?

A Yes.

Q And who did you give that to?

A I gave \$400 to Chester and I think it was one or two hundred to Paul.

Q Now, after you received your share of the money, what did you do?

A Well, Chester went somewhere. Paul, Terry and I went to New York City.

2 Q And where did you go in New York City?

3 A Well, we did a little shopping. Then we ended
4 up checking into the Ramada Inn.

5 Q How did you get to New York City?

6 A I drove my car. Terry and Paul were in his car.

7 Q And when you reached the Ramada Inn, did you have
8 both cars with you?

9 A No.

10 Q Which car did you not have?

11 A We didn't have Terry's car.

12 Q And would you tell us, if you know, where Terry's
13 car was then?

14 A It was on a police parking lot.

15 Q How did it go to the police parking lot?

16 A Paul parked it in a tow-away zone and they work
17 real quick up here.

18 Q Now, did you register at the Ramada Inn?

19 A Yes, I did.

20 Q And did you sign in yourself?

21 A I believe I did.

22 Q And what name did you use to sign in?

23 A My own.

24 Q Now, who else registered at the Ramada Inn?

25 A Terry and Paul, I believe, registered.

Q After you signed in at the Ramada Inn, did you do anything else that night in connection with this case?

A Yes.

Q Would you tell us what that was?

A Approximately 4:30 Chester called Paul and said he was coming over to pick us up. So Terry said -- told me to go down look at the area by myself to see if I had any ideas of approach or just how I would like the whole setup. So Paul and I left with Chester to go down to Maiden Lane.

Q And did Terry go with you?

A No, not that time.

Q And where was he at that time, if you know?

A He stayed at the hotel.

Q Now, where did you go with Chester and Paul?

A We went down to the Maiden Lane area.

Q And would you tell us just where you went, if you recall?

A It was across the street from the tavern, South Street and Maiden Lane.

Q And is that the only place that you went?

A No. We went on the whole route of the truck again.

Q And while you were on the route of the truck, did you have a conversation with Chester?

A Well, we was talking, seeing exactly what time the truck came, and he was saying that -- I said, "How do you know what's on the truck?"

He said that they had been checking it out for at least six months and at one time one of their group stood on a corner and looked into the bank and saw them loading -- saw it being loaded with pallets.

Q And what did you understand the pallets to mean?

A What they stack the money on.

Q Did you have any other conversation with Chester while you were driving that route?

A Just the whole plan in general, saying exactly -- we picked out a spot about a block and a half away from the Federal Reserve Bank that looked like the ideal spot.

Q Now, did there come a time when you completed driving the route with Chester?

A Yes.

Q And where did you go at that point?

A We went back down to Maiden Lane.

Q And what did you do on Maiden Lane?

A That's when I was introduced to Tommy.

Q Was that on the street or in the car?

1 A The street.

2 Q And was there anyone else there at that time?

3 A Mike and Chester, Paul and myself.

4 Q And who introduced you to Tommy?

5 A Chester did.

6 Q Did you have a conversation at that time?

7 A Chester said he was one of the fellows up from
8 New York -- I mean up from D.C., and that they looked
9 over the plan, and then Tommy asked him, "What do you think
10 of it?"

11 He said, "It looks pretty good."

12 And also Chester was saying that I might bring
13 him some good luck because I just had a \$500 bond from
14 when I got stopped in New Jersey, and they were saying
15 that if it happened in New York that I probably wouldn't
16 have gotten out on bond like I did.

17 Q Did Mike say anything on that occasion?

18 A No, he didn't.

19 Q Did you say anything to him?

20 A No.

21 Q Now, where was Paul Crawford during this conver-
22 sation?

23 A He was in Chester's car.

24 Q And after that conversation, did you go anyplace?

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1
2 A Chester took Paul and I back to the Ramada Inn.

3 Q And did you do anything else on that night?

4 A Not of any great degree.

5 Q If I may, just for a moment, go back to the
6 afternoon of that day, March 22, 1973, you testified that
7 Terry Myers handed you the pistol inside the car.

8 Would you tell us, do you know --

9 MR. KENNEY: May I withdraw that and say:

10 Q -- did you see where Terry got the pistol?

11 A Yes. He got it from Chester.

12 Q And where was that?

13 A Well, before we took off from the dirt lot,
14 Chester had it under the seat of the car.

15 Q And did you see where Chester got the pistol?

16 A Just from a bag under the seat.

17 Q And in whose car was that?

18 A In Chester's car.

19 Q Now, directing your attention to Friday, the
20 23rd of March, would you tell us, did you meet with
21 Chester on that day?

22 A Yes, I did.

23 Q And what time of day did you meet him?

24 A This must have been around 6:00 o'clock.

25 Q Was that in the morning or at night?

1
2 A At night.

3 Q And who was with you when you met with Chester
4 on that day?

5 A Well, Paul was with me. When I went down there
6 on Maiden Lane, that's where I met them. It was Tommy,
7 Mike and Jack were down there, and Terry.

8 Q Did you meet Chester on Maiden Lane?

9 A Yes.

10 Q And did you leave the Ramada Inn to go to Maiden
11 Lane?

12 A Yes, I did.

13 Q And who left with you?

14 A Paul Crawford.

15 Q And where was Terry at that time?

16 A He was on the way back to D.C., or he was
17 already there.

18 Q When did he go to Washington, if you know?

19 A He left that morning.

20 Q Do you know why he went to Washington?

21 A Yes. He had to go get his registration card
22 so he could get his car back.

23 Q When you reached Maiden Lane and South Street
24 on that day, would you tell us who you met there again,
25 please?

2 A Tommy, Mike, Jack, Chester and Terry.

3 Q And did you have a conversation on that day?

4 A Yes. We decided it was too late to do anything
5 about the job.

6 MR. MARTIN: I object, if your Honor please,
7 to the "deciding."

8 May we ask the witness to say what, if anything,
9 anybody said?

10 THE COURT: Yes.

11 Specifically, what was said? If you can remember.

12 THE WITNESS: Well, I got in the car. I told
13 Terry that -- not to think about doing anything with Paul
14 because he was an idiot. And then I went over and talked
15 with Chester and said, "Too late to do anything about the
16 job."

17 He said, "Yes. We'll just wait and hold off
18 until next week."

19 Then I showed him my sheet of paper from New
20 Jersey and I said, "Do you think you all can help me with
21 this?"

22 Q Would you tell us who you showed this to?

23 A To Chester.

24 So then he called Tommy over and Tommy looked
25 at it and said -- he asked, I think it was either Mike or

2 Jack -- I'm not sure which one it was -- "What is the
3 guy's name down there who wants to do business with us?"
4 And they didn't remember.

5 So he said, "I'm going to check on him. Remind
6 me."

7 So I said, "Okay."

8 So from there we left.

9 Q And when you left, where did you go?

10 A Well, Paul, Terry and I left in my car to go
11 get Terry's car.

12 Q And where was Terry's car?

13 A On one of those docks down on the waterfront.

14 Q And did you get Terry's car?

15 A Yes.

16 Q And after you got Terry's car, where did you go?

17 A We went to the Ramada Inn to check out, and then
18 we came back to D.C.

19 Q How did you get back to D.C.?

20 A In my car.

21 Q And where was Terry's car at that time?

22 A Well, Chester met us over there and he said --
23 told Terry to leave it because he knew a guy in a Cadillac
24 dealership that could fix it. He had a few things wrong
25 with it. So he said leave it over the week end, he would

2 have it taken care of. So Terry wrote a note to release
3 it to him and we left it there in a garage.

4 Q Now, after you returned to Washington, did you
5 meet anyone in Washington in connection with this case?

6 A Well, Sunday night -- Sunday afternoon, rather,
7 I got a phone call, and it was a friend of mine, Harry
8 Johnson, because he asked me, you know, what I had been
9 doing, because I hadn't seen him in a few months. I told
10 him, you know, nothing much. And I said I had something
11 he might be interested in. I said I met some people in
12 New York that he might be able to have some business
13 connections with. So I said if he wasn't doing anything,
14 to come and go back up to New York with me on that
15 Monday.

16 MR. DIRENZO: I move that the answer be stricken.

17 THE COURT: Overruled.

18 Q And did there come a time when you returned to
19 New York?

20 A Yes.

21 Q When was that?

22 A Monday night.

23 Q And how did you return to New York?

24 A The shuttle flight, airplane.

25 Q And who came with you?

2 A It was Harry, Terry and myself.

3 Q And when you reached New York, did you meet with
4 anyone?

5 A Chester Crawford.

6 Q Where?

7 A At the airport.

8 Q Do you recall what airport?

9 A Laguardia.

10 Q And after you met Chester Crawford, did you go
11 anyplace?

12 A Yes. He took us to the Met Motel.

13 Q Where is that, do you know?

14 A On Queens Boulevard.

15 Q And is that on Long Island?

16 A I don't know. It is somewhere near the airport.

17 Q Did you do anything on the night of the 28th
18 in connection with this case?

19 A No.

20 Q Now, on the next day, Tuesday, the 27th, did
21 you meet with Chester?

22 A Yes.

23 Q Where?

24 A He came to the Met and picked us up.

25 Q What time?

2 A Around 10:00, 10:30, 11:00, something like that,
3 in the morning.

4 Q After he picked you up, did you go anyplace?

5 A Yes. We went down to the Ramada Inn to get
6 Terry's car.

7 Q And did you get Terry's car there?

8 A Yes.

9 Q And after you got Terry's car, did you go anyplace?

10 A Well, we rode around the New York area, mainly
11 in the Williamsburg area and what he said was Little Italy.
12 I don't know where it is.

13 Q And what car were you in?

14 A We were in Chester's car, because we had parked
15 Terry's car down there under that metal thing. I don't
16 know what you call it. It was right on South Street.

17 Q You parked Terry's car on South Street.
18 Would you describe where you parked it?

19 A I guess there is a highway on top of this metal.
20 It is like a bridge or something.

21 Q Is it an elevated highway?

22 A That's it, I guess.

23 Q Who was in the car with Chester and yourself?

24 A Paul and Terry. I mean, I'm sorry, Harry and
25 Terry. Paul wasn't there.

Q Harry Johnson?

A Yes.

Q And was Paul Crawford with you in New York at the time?

A No.

Q Now, after you drove around for awhile with these people, did there come a point where you did anything in connection with this case?

A Yes. We went to the Katz delicatessen.

Q And where is that, if you know?

A It is on Houston Street.

Q What time of day was that?

A This was around 4:30.

Q When you went to Katz, did you meet anyone there?

A Yes. Tommy, Mike and Jack.

Q And who else was with you in Katz'?

A Harry, Terry, Chester and myself.

Q While you were in Katz', did you do anything?

A We ate. And --

Q Were you seated at a table?

A Yes. Two tables.

Q And was Katz' crowded at that time?

A There were some people in there. It wasn't packed.

Q Did you have a conversation in Katz'?

A Not -- we didn't talk too much about the job at any public place.

Q Was anything said relating to this case while you were in Katz', if you can recall?

A I just introduced him to Harry, showing him he was all right, saying he was a friend of mine from D.C.

Q Now, at that point, did you have an understanding or agreement with Harry?

MR. DIRENZO: Objected to.

THE COURT: Overruled.

A Yes.

Q And would you tell us what that was?

A Well --

MR. DIRENZO: Objected to, your Honor.

THE COURT: Overruled.

A Well, my idea was that the money I was going to get --

MR. DIRENZO: Objected to, your Honor.

THE COURT: You objected, and I assume we have our agreement. You don't have to keep jumping up at the end of every sentence. You have objected.

MR. DIRENZO: Excuse me, your Honor. I objected -- whenever that objection --

THE COURT: Right.

MR. DIRENZO: Now he's saying, "I had an idea."
That specific portion, I'm objecting to.

THE COURT: Overruled.

Q Would you tell us what that understanding was?

A The money I was to get from this crime I was going to set up a business with Harry.

Q And what crime were you referring to?

A The mail truck.

Q Now, did there come a point when you left Kats?

A Yes.

Q And when you left, where did you go?

A We went down to the Maiden Lane area.

Q And how did you get there?

A Went with Terry and myself. Harry and Chester left in another car, and we parked Terry's car, I think it was on West Street, some area not too far, within two miles of where the Manhattan District was.

So we got out and then we got into Chester's car and the four of us went down to the Maiden Lane area.

Q When you say the Manhattan District, what are you referring to?

A I'm talking about just the financial part that I know, around where the Federal Reserve Bank is.

Q Now, when you got into Chester's car, where did you go?

A We went down to the Maiden Lane area.

Q And did you meet anyone there?

A Yes.

Q Who did you meet there?

A Mike, Jack and Tommy.

Q Did you have a conversation on that occasion?

A Yes. Chester went over there to talk to Tommy, came back and said there was some mix-up about the car we were supposed to use for the stop car, the one that was supposed to stop in front of the truck. So he said we couldn't do it that day because we didn't have, you know the right equipment.

Q And did you speak to anyone other than Chester that day on Maiden Lane?

A Well, yes. Jack asked me did I have any money left from the other job. I said no, that went out for bills and for various things.

So we just decided we couldn't do it. So then Chester said, "Well, we'll meet you over at the tavern a little later on."

So we broke up.

Q And did you leave at that time?

1 A Yes.

2 Q And who left with you?

3 A Harry, Chester and Terry.

4 Q And where did you go?

5 A Well, we went to pick up Terry's car. Then
6 Terry and I got in that car. Then we followed Chester
7 over to New Jersey, that same tavern.

8 Q Which tavern was that? The first one you went
9 to or the second one?

10 A Right, the first one. It is in the middle of
11 a block of the intersection with about four or five
12 corners.

13 Q Do you know the name of either one of these
14 taverns?

15 A I think the first tavern was, like Hall's or
16 Wall's, something like that. I'm not sure.

17 Q And do you know what the second one was called?

18 A No.

19 MR. KENNEY: May we call the first tavern Wall's,
20 your Honor?

21 THE COURT: Yes.

22 Q When you reached the first tavern, did you go
23 inside?

24 A Yes.

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Q And who else went inside?

A Harry and Terry.

Q Where did Chester go?

A He went in also.

Q Did you see anyone inside?

A Yes. I saw Jack and Tommy in there.

Q And did you have a conversation with either Jack or Tommy?

A Yes. I went over there -- first of all, he and Terry were in the back room -- he and Chester and Terry were in the back room.

Q When you say "he," who do you mean?

A Tommy, Chester and Terry were in the back room.

Q Where was the back room?

A Well, as you walk into the tavern, the bar is along the wall here (indicating). Then there is like some kind of a pin ball machine and there is an opening. There is a back room in there with a dart board and a kitchen around in there.

T9

Q And you were not in the back room? Is that right?

A Not at first, no.

Q Did there come a time when you went in the back room?

A Yes.

Q When you went in, did you then have a conversation?

A Yes.

Q Who was present at that conversation?

A Mommy, Terry, Chester and myself.

Q What was said at that time and who said it, if you can recall?

A Well, Chester asked me what did I think of the set-up, and I said it looked easy, nothing to it. I said, "Do it." And Terry said with the information that we have and getting the right equipment, it should not be any problem at all.

Q Would you tell us everything that you can recall was said?

A That is basically it. I can't remember word for word. General conversation.

Q Did you have any other conversations in Wall's Tavern that night?

1 A I talked to Jack, Mike, and various others
2 at different times, but I can't remember the exact conver-
3 sation. Nothing basic. The basic plan was talked over
4 by Chester, Terry and myself. So there wasn't any great
5 need.

6 MR. MARTIN: I must object to that, if your
7 Honor please.

8 THE COURT: Overruled.

9 Q Did there come a time when you left Wallh
10 Tavern that night?

11 A Yes.

12 Q Who left with you?

13 A Well, Chester, Terry, Harry and myself.

14 Q How did you leave?

15 A Well, Chester's car and Terry's car.

16 Q Where did you go?

17 A Which car did I go in? Or where did we go from
18 there?

19 Q Which car did you go in?

20 A I believe I was with Chester.

21 Q Where did you go?

22 A We went back over to the Met Hotel.

23 Q Did you do anything else that night in connection
24 with the case?

25 A No.

Q Did you stay in that motel?

A Yes.

Q Who else stayed in that motel?

A Harry and Terry.

Q What day of the week was that, if you recall?

A That was Tuesday, I believe.

Q Directing your attention to the next day, Wednesday, March 28, did you meet with Chester on that Wednesday?

A Yes.

Q Where?

A Well, he called around 10 o'clock in the morning and told us, Harry, Terry and myself, to drive over to South Third Street, where he would meet us, which we did.

Q What car did you drive to South Third Street in?

A In Terry's car.

Q When you got to South Third Street, did you meet Chester there?

A Yes.

Q Did you have a conversation with him?

A Nothing really. He just said we were going to ride around a while and then meet at Katz.

Q Did you, in fact, ride around?

A Yes.

Q What car did you ride around in?

A Well, Chester's.

Q Who was in the car with you?

A Terry, Harry, myself and Chester.

Q How long did you ride around?

A Two, three, four hours, something like that.

Q Did you go any place during that trip that you can recall?

A Just we stopped at a candystore which Chester said he owned. And he was pointing out an apartment building he said he owned. And that is about it.

Q Did there come a time when you went to Katz?

A Yes.

Q About what time of day was it?

A 4.30, quarter to 5.

Q When you reached Katz did you go inside?

A Yes, I did.

Q Did Chester and Harry go with you?

A Yes.

Q Did you meet anyone in Katz?

A Yes.

Q Who did you meet in Katz on that day?

A Tommy and Mike.

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Q If you recall, did you have any conversation in Katz?

A Well, they said that Jack wasn't there; they didn't know where Jack was; so they said we can't do it because we didn't have the right people.

Q Was anything else said at Katz that you can recall?

A That was just about it basically.

Q Did you go any place from Katz?

A Well, we drove down to Maiden Lane, that is, Chester, Terry, Harry and myself, but I didn't see the others down there. We just went down there to see if everything was the same, to see if Jack would show up.

Q When you reached Maiden Lane did you do anything?

A No, just sat there 10 or 15 minutes. Then we went to get Terry's car and went back to -- no -- that was Wednesday. We told Chester that we have to go back to D.C. because the tags were due on my car and his car and we had tag money and ticket money we had to get.

Q -- Did Chester say anything to you about that?

A Well, Chester said, "Wait a minute. Maybe we can think of something." So he went over to Tommy and he talked. So then he came back and said, "Well, look, I can

get you enough money to go back."

Q Where were you when this conversation took place?

A Right before we went down to Maiden Lane.

Q Before you went down to Maiden Lane?

A Yes, it was outside on the side of Katz.

Q And where was Tommy when Chester went over to him?

A He was ready to get in the car.

Q And when he came back did he say anything to you? Did Chester say anything to you?

A Yes, that is when he said he has a place he can get some money.

Q Was it after that that you went to Maiden Lane?

A Yes.

Q Did you go any place when you left Maiden Lane?

A Yes. Chester had to make a stop some place -- I don't remember where it was -- and from there we went some place in New Jersey. And it was a diner. And he was looking for a gold Cadillac, and it was not there. So we went to another corner, about half a mile from there. He didn't see what he was looking for. And he came back, and the Cadillac was there. So he went inside. He came back with, I think it was something like \$400.

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Q When you are saying he went inside --

A Chester.

Q And when he came back what did he do with the \$400?

A He said that he got it from a guy that holds the money for the organization, and he gave it to Terry.

Q What was that money for?

A It was for the tickets and the tags for Terry and myself.

Q When you say tickets --

A Parking tickets that you have to pay before you get your registration.

Q Now, where did you go after Terry received the \$400?

A Well, we picked up Terry's car and then went to the Met, back to the Met.

Q How did you pick up Terry's car? Who took you there?

A Chester. In Chester's car we drove back.

Q And when you returned to the Met, who was with you?

A Well, Harry was with me.

Q Where was Terry?

A Chester took Terry to the shuttle -- to the train

station, rather, to go down to D.C.

Q What time of day was that?

A This was late, something like 10, 9 or 10 at night.

Q Did you stay at the Met Hotel that night?

A Yes.

THE COURT: You didn't go with Chester and Terry when they left the Met Motel?

THE WITNESS: They didn't come back to the Met. We left them in the downtown area, and Harry and I drove back to the Met.

Q Now, directing your attention to the next day, Thursday, did you meet Chester on Thursday?

A Yes, he called.

Q Did you speak to him?

A Either Harry or I. I am not sure which one answered the phone.

Q After he called did you meet with him?

A Yes.

Q Where did you meet with him?

A He came and picked us up at the Met.

Q What time of day was that?

A This was like 2 o'clock, I guess. It was rather late.

Q After he picked you up will you tell us where you went?

A He was wondering if we had heard anything from Terry, and I told him, yes, Terry had called, but he couldn't make any connections and he couldn't get back until late that night. We decided to go down to Maiden Lane to check with the others.

So, first of all, we went to Katz. And there we waited until Jack, Mike and Tommy came there. We didn't go inside at that time.

Q What time did you arrive at Katz?

A This is around 4.30.

Q When Jack and Mike and Tommy arrived, what did you do?

A Well, they came around and Chester got out and I got out and said that Terry wasn't back. So Chester asked me, "Do you still want to do it?" So that is when Harry said that if we needed him he would take my place and I would do what Terry is supposed to do. So I thought about it. So I said, "We will go down there and look and see."

So at that time they had a station wagon to use.

Q Will you describe the stationwagon?

A It was a late model, like '70, '71 station-

wagon. I don't know what make.

Q What color was it?

A It was blue.

Q Did you go any place at that point from Katz?

A Yes, we went down to the same area.

Q How did you go down?

A We went with Chester.

Q Who else was in the car with Chester?

A Harry and myself.

Q Do you recall just where you went on that day?

A Yes, we went right down to where we always go, by the tavern, the Maiden Lane area.

Q When you reached Maiden Lane did you meet with anyone there?

A Yes, with Jack, Tommy and Mike.

Q Will you tell us what happened at Maiden Lane?

A Well, we decided to go in and try it. So Chester took Harry and I and dropped us off at the place that was designated we were going to do the job. So we got out and waited for the truck to come. So we saw the stationwagon come. So I got in position. But the stationwagon didn't stop. It kept going.

Q After that did you subsequently meet anyone with Jack and Mike and Tommy?

A Yes. Tommy was right behind the mailtruck. So he stopped. And Harry and I got in and we said that Mike didn't stop the stationwagon. So we went back down to Maiden Lane. That is where we saw Mike and Jack. Mike said he didn't see us on the street, that is why he didn't stop. So we didn't do it that day.

Q I am sorry? Mike said? I didn't understand what you said that Mike said.

A Mike said that he didn't see us on the street, so he didn't know where to stop.

MR. KENNEY: Your Honor, could the witness come to the chart to show us where he was that day?

THE COURT: Yes.

(Witness goes to chart.)

Q Mr. Mann, stand at the right of the chart so the jurors can see. Have you seen that chart before?

A Yes.

Q Does that chart represent the streets in the area that you are referring to as you understand them to be?

A Yes.

Q Would you show us where you were standing on the street when the stationwagon went by?

A I am trying to get my bearings. Back here

(indicating) -- do you have that other map?

MR. KENNEY: We do have another map, yes, sir.

Could this chart be marked Government's Exhibit

14?

(Government's Exhibit 14 marked for
identification.)

MR. MARTIN: May we have the record indicate
that the witness did not indicate any of the streets on
that other map?

THE COURT: He already said he couldn't tell from
that, that he wanted to see this map.

THE WITNESS: It was approximately right in this
area (indicating).

THE COURT: Give the witness a pencil. Put an M
there.

MR. KENNEY: May the record reflect that the
witness has marked the map on the southeast corner of
Gold Street and Platt Street.

Q Now, could you show us on that map, Mr. Mann,
where you returned to when you say you met by a bar on
Maiden Lane?

A Right here.

THE COURT: Do you want to put a B there for
the bar.

(The witness so marks the chart.)

MR. KENNEY: May the witness return to the witness stand, your Honor?

THE COURT: Yes.

I told the jury that they could leave here by 6.10 or 6.15 in order for one of them to get a train. Are you up to the last day now?

MR. KENNEY: We are on the 29th, your Honor.

THE COURT: Well, this may be a good time to stop, don't you think?

MR. KENNEY: It would be all right to stop here.

THE COURT: You are excused until tomorrow morning at 10.15. I understand that one of counsel has an engagement in another court that has to be kept. We will start at 10.15. We will keep the same schedule we had today.

Remember, please, don't talk to anybody about the case nor look in the newspapers for any reports of the trial. You are excused now until tomorrow morning at 10.15.

(Jury and witness excused.)

THE COURT: Since counsel is about half-way through with this testimony --

MR. KENNEY: A little bit better than that.

THE COURT: I would expect that you will talk

2 about the testimony up to date with the point of view of
3 cross-examination so we can lessen the time necessary
4 when he completes his direct for consultation.

5 (Whereupon, an adjournment was taken to
6 December 18, 1973, at 10.15 a.m.)
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WITNESS INDEX

<u>Name</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Terrence Dewey Myers (Resumed)		759	863	
Gerald Dexter (Resumed)	877	885	902	903
Geoffrey Matthews Mann	907			

EXHIBIT INDEX

<u>Government</u>	<u>In</u> <u>Identification Evidence</u>
13	908

UNITED STATES OF AMERICA

vs.

73 Cr 855

THOMAS JOSEPH CARROLL, et al.

New York, December 18, 1973;
10.30 A.M.

Trial resumed.
- -

(In robing room, all counsel present except
Mr. Dierenzo.)

THE COURT: I have read the presentence report of Chester Crawford and there is nothing in that presentence report that has to be brought to your attention that is in any way inconsistent with what he says. In fact, he gives no statement because he is waiting a charge in New Jersey and therefore he is not talking.

Secondly, I read Mann's statement and there is nothing inconsistent in that to this point.

But on Myers, my recollection is -- we just made a fast check of the record -- that he admitted he had a Youthful Offender conviction for armed robbery in D.C. on May 6, '66, and that he was in the Youth Correction Center till December 1st, '67. That is consistent. But this report says that he pled guilty to statutory burglary on December 31, '68, and received a suspended sentence.

Now that we don't have.

MR. KENNEY: No, your Honor, I don't think I have ever had any information on that.

THE COURT: Before you use it, I would want the probation people to recheck this, because they made a mistake in Chester Crawford, too. They put the pending conviction in New York and it should be New Jersey. So before there is any point of using this, if you want to use it, I'd like to have it checked out and find out where he got it from, because if Kenney doesn't have it on his rap sheet, I don't know where the probation fellow could have gotten it.

All right?

MR. HOPPER: And Harry Johnson, your Honor?

THE COURT: I haven't read his until he testifies.

MR. HOPPER: I was thinking of Brady material.

THE COURT: I'd give it to you the same time, if there was anything in it.

The only meaningful of the presentence report is after the man has testified.

MR. HOPPER: I didn't get a rap sheet on him, so I don't know whether he has a prior record if they intend to call him or not.

THE COURT: If he has, you will be told.

Do you have a prior record on him?

MR. KENNEY: We don't intend to call him as a witness. There was some confusion on the record, it seems to me, several times during the trial. We have taken the position from the outset of this case that any of the defendants who are in custody would be available to any lawyer if he wanted to talk to them, so that would include --

THE COURT: I know that. That has been on each.

MR. KENNEY: Harry Johnson is not in custody, but we would make him available if anyone wants to call him as a witness.

THE COURT: Okay.

MR. MARTIN: I think that might be a good idea, when it is convenient. I would like to take advantage of it.

MR. KENNEY: He lives in Sea Pleasant, Maryland, if you would give us some time --

MR. MARTIN: Oh, never mind. I thought he was closeby.

MR. KENNEY: We would add, your Honor, that pursuant to --

THE COURT: The record has been since last

September, I think, wasn't it, even earlier, that each defendant would be made available to a co-defendant after his counsel indicated that such a conference would take place.

MR. KENNEY: We have checked on the man who drove the mailtruck prior to Crawford Lawrence driving it on May 5, 1973.

He was interviewed by a postal inspector named Woody Monroe. No report was prepared as a result of that interview. He left the service, the postal service, about three weeks before the robbery occurred, and he is presently in the United States Army.

Mr. Kievit, postal inspector on this case, is getting his name and serial number for us so that we can give it to Mr. Martin.

MR. MARTIN: I think I'd like to talk to him if possible. Even the investigator, perhaps, who spoke with him, whatever he may have on it.

THE COURT: My understanding was that it wasn't the driver transfer; that there was a transfer in the guard. Is that correct?

MR. MARTIN: That's right.

MR. KENNEY: There has been no testimony to that effect.

THE COURT: Yes, there was. That, I think, is the import of Myers' testimony, that the guard was supposed to be in on it and there was a change in the guard.

MR. KENNEY: That's right, but that testimony is Myers' testimony of the conversation with Carroll and before we rest there will be more testimony as to whether or not the guard was changed.

MR. HOPPER: Lawrence said this was not his regular run.

THE COURT: He is the driver.

MR. KENNEY: He is the driver.

THE COURT: And that is the man Mr. Martin is looking for, the fellow who was supposed to be the driver on the regular run, and Mr. Kenney has just been saying he is now in the Army and so forth. But Myers' testimony on cross was, it was his understanding that the guard had been changed that day, because if the guard who was supposed to have been on was on, he was in on the deal and the window would have been down and the latch open. That is what I understand Mr. Myers' cross-examination to be.

All right, I see no point in waiting any more.

Has Juror No. 7 shown up?

MR. MARTIN: If your Honor please, on that.

Myers, if it should develop that Myers does have a record, would your Honor read that to the jury?

THE COURT: Obviously. Obviously. I don't see any point in bringing him back to say he pled guilty and received a suspended sentence in 1968 for statutory burglary, found in a closed store. That is all it says.

MR. MARTIN: Your Honor will instruct the jury?

THE COURT: Would you run that out with the probation people? Find out where they got that from.

LAW CLERK: Yes.

THE COURT: Okay.

(Recess.)

(Proceedings continued in the court-
room with the jury in the box.)

MR. KENNEY: Your Honor, Mr. Mann is not here
as yet and we have no explanation as to why. We have Mr.
DiGiorgio outside and we call him out of order, if that
will be all right.

R O C C O D i G I O R G I O, called as a witness
on behalf of the government, being first duly
sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEY:

Q Mr. DiGiorgio, will you tell us what your
occupation is?

A I am a truckdriver.

Q Who are you employed by?

A Werner Continental Company, Secaucus, New
Jersey.

Q How long have you been employed by that company?

A 28 years.

Q Do you have any other function with the company
besides being a truckdriver?

A I am a shop steward and I represent the union.

Q Do you have a habit as an employee of that company
related to pay checks?

A Yes.

MR. DIRENZO: Objection.

THE COURT: What do you mean by habit?

THE WITNESS: Well, I have been cashing pay-checks for the employees of of Werner Continental.

THE COURT: This is on a regular basis?

THE WITNESS: I had been doing it regularly.

THE COURT: How many employees are there?

THE WITNESS: They have mentioned about 30-some-odd employees.

THE COURT: And how many employees would you cash checks for?

THE WITNESS: About 30 of them.

THE COURT: All the time?

THE WITNESS: It varied. Sometimes 30 -- it ranged from 30 to 40 checks every week.

THE COURT: Were the employees paid by check every week?

THE WITNESS: Yes.

THE COURT: And you would do this every week?

THE WITNESS: Every Thursday, yes.

BY MR. KENNEY:

Q Up to March, 1973, how long had you been doing this?

SOUTHERN DISTRICT COURT REPORTERS

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A Well, in Secaucus where we are presently employed I have been doing it for over two years, but before that I had been doing that for 10, 15 years.

Q Have you always been doing it on Thursday?

A In Secaucus it was always Thursday.

Q What time of day would you cash the checks?

MR. MARTIN: I am going to object to this, if your Honor please, and move to strike.

THE COURT: Overruled.

Q What time of day would you cash the checks?

A No special time. Whenever I got a chance.

In my job I worked in the yard backing up trailers. When I got through there I would go and pick up the men.

Q Directing your attention to March 22, 1973, did you do anything on that day with regard to pay checks?

A My boss, Mr. Resack, he asked me to go have his car inspection when I was going to the bank to leave the checks, so I did drive his car, which was a '72 Dodge, I stopped off at the Plaza National Bank on County Avenue, Secaucus, and I left the girl the checks, and I said I would be back later to pick up the money. Then I drove to the inspection station and I had his car inspected. And then I took the car back to the terminal. I didn't stop for the money, because it takes a while to make the

payroll up.

Q What did you do after you returned to the terminal?

A Well, then one of the supervisors took sick and Mr. Resack --

MR. MARTIN: I am going to object.

THE COURT: Overruled.

A -- Mr. Resack asked me if I would drive him home.

MR. MARTIN: I object and move that that be stricken.

THE COURT: Overruled.

Q What did you do after Mr. Resack asked that you drive him home?

A Then I took him home, and then I put Mr. Dente in the car and drove him to Linden, New Jersey.

Q How did you get to Linden, New Jersey?

A By the Jersey Turnpike.

Q What did you do after you reached Linden, New Jersey?

A I dropped Mr. Dente off and I came back to the Turnpike and I got off at Secaucus and then I parked my car on County Avenue, which is right opposite the bank, in between the bank and the grocery store, because I had to go in the grocery store to pick up some lunch for one

of the girls. So I walked into the grocery store and had something to eat, and I got a container of soup and a sandwich, and I come out with the bag and I walked to the bank and I picked up the bag of money. Then as I was approaching my car to get in my car I was forced into my car by two male negroes at gunpoint. They told me to get in the car and give them the keys and to slide over.

MR. DIRENZO: I have a continuing objection to this entire testimony, your Honor, with the same motion.

THE COURT: Certainly, and the same ruling. Overruled.

Q Will you tell us what happened after you got in the car?

A The fellow that was driving the car told me to look out the window, not to look at him, and told me to hand the bag of money to the other fellow who got in the back of the car, and I handed him the bag of money. He said, "Check it to see you have the right bag," because the other bag had lunch in it, and the fellow said he had the right bag. He drove half a mile, it was toward the direction where I worked, and he crossed a couple of railroad tracks, there is a freight yard there, and he told me he was going to park the car alongside this building. He said, "You and I will get out. Your keys will be on

the floor. Now, you walk around the building, and when you come back, your keys will be on the floor. Now, you walk around the building, and when you come back, your keys will be there and we will be gone." So I did what he told me to do. And we got to the building, he dropped the keys on the floor and he gave me a shove in the direction which way he wanted me to walk. So I walked up maybe about 50, 60 feet, and I came back and I picked up my keys, and I ran across the street to the factory and I asked him to call the police, that I was just robbed of the payroll.

Q Did you see these two men again?

A No, sir.

Q Do you know who they are?

A No, sir.

MR. KENNEY: I have no further questions of this witness.

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JAMES L

DiGiorgio-cross

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CROSS-EXAMINATION

BY MR. DIRENZO:

Q Mr. DiGiorgio, you have been employed by Werner?

A Yes.

Q And you still are?

A Yes.

Q And during this 28-year employment, did you have occasion to meet a man by the name of Turner?

A Did I happen to meet a man by what? I can't hear.

Q Turner.

A Turner, yes, Turner worked for us in Secaucus.

I was a shop steward for a period of time.

Q How long did Turner work for Werner?

A Well, I don't know how long. I know he was dismissed in February. Might have worked there anywhere from six months to a year. I don't know exactly how long.

Q Do you recall when he was dismissed?

A Yes, he was dismissed in February.

Q And do you know why he was --

THE COURT: February of what year?

THE WITNESS: '73.

A I don't know the reason why, no.

Q By the way, did you ever have occasion to cash

one of Turner's checks?

A I don't believe so, no. He's a road driver. I very seldom cash road driver's checks. It's just the city drivers and the office personnel. I never cashed his check.

Q Is it fair to state that Mr. Turner knew that you were cashing checks?

MR. KENNEY: Objection.

THE COURT: Overruled.

A I couldn't say if he knew. All I could say is a lot of people knew my habits, because it was in the open.

Q In any event, he was dismissed in February of 1973, and within one month, that would be on March 22, 1973, a payroll was taken from you?

A That is correct.

Q Do you recall how much money was taken from you?

A We checked it out and it was \$8,700 and some change.

Q And it was your practice, was it not, to go to this specific bank to cash these checks, is that correct?

A Yes, sir.

Q And what bank was that?

A That was the Plaza National, the annex.

Q And that was on County Avenue, you testified?

A That is right.

Q Now, you had two bags with you before you were robbed, is that correct?

A Right.

Q One was the lunch bag --

A One was the money bag.

Q -- and one was the money bag?

A Right.

Q Was the money bag in what we commonly know as a money sack or a paper bag?

A It was a bank bag, regular bank bag, canvas bag.

Q I want to invite your attention to the point where you were shoved into a car. Did you feel something in your back?

A No, he just showed me the gun, if that is what you mean. He showed me the gun and told me to get into the car.

Q And did he say to you, "Freeze"?

A No, sir. He didn't use that word.

Q He didn't?

A No, sir.

Q Incidentally, you did tell him, recognising that you had to bring the soup and sandwich to one of the

ladies that was working for Werner, you did tell him,
"Please don't touch the lunch bag"; right?

A No, I just told him there was lunch in the bag.

Q He told you, "Don't look"; correct? And you
didn't look; correct?

A Right, sir.

Q And then there came a time when he told you to
exit the vehicle that you were driving?

A No, he was driving the vehicle.

Q That you had originally been driving?

A My car, yes, he told me to push over and hand
him the keys. I slid over to the other side, and he drove
the car.

Q And then one man stayed in the back?

A One man got in the back.

Q Now, incidentally, when you saw that which you
saw, after you got into the car, did you see the man who
ultimately drove your car hand the gun to the man in the
back?

A No, sir.

Q Did you know that happened?

A No, sir.

Q Were you told, "Don't make any false moves"?

A He told me not to move. "Don't try nothing

foolish"; I think them are the words he used.

Q Did he tell you if you moved, something might happen?

A No, sir.

Q And you didn't move; correct?

A Right, sir.

Q You froze?

A Right, sir.

Q And then, at this point, you were told to walk down an alley?

A Yes, sir.

Q And, of course, you obeyed the command that was given to you?

A Yes, sir.

Q By the way, this command was given to you by the man who originally accosted you?

A The fellow that was driving the car.

Q One man did the talking; correct?

A Yes.

Q Incidentally, at any time before the robbery or subsequent to it, did you ever see Jack Turner?

A No, sir. That day you mean, right?

Q That day.

A No, sir.

Q Have you seen him since then?

A No, sir.

Q In any event, you were told your keys would be thrown on the floor?

A Yes, sir.

Q And you found the keys pretty much where you were told they would be?

A Where he dropped them, yes.

Q Did he give you any time limit within which to return?

A No, he just said to walk around the building.

Q And this was a big building or a large building?

A Yes, sir.

Q Approximately how long did it take you to walk around?

A I didn't walk around the building. I only walked up to the alley, about fifty to a hundred feet, and then I come back.

Q If you know -- only if you know, Mr. DiGiorgio -- did you learn that Mr. Turner set up this stickup?

A No, sir.

MR. DIRENZO: Thank you, sir.

THE COURT: Mr. Martin?

CROSS-EXAMINATION

BY MR. MARTIN:

Q Mr. DiGiorgio, can you describe the two men?

A Well, the one that was driving the car, all I know, he was very big, and he had on big glasses and a big coat, with the collar up. I couldn't see much of his face.

The other fellow, I just got about his height, you know. He was a lot shorter.

Q He was a lot shorter, a smaller man?

A Smaller than the man that drove the car, right.

Q Were they white or were they Negro?

A Two Negroes.

Q As far as you were concerned, they were the only two people who were involved in that robbery of you that day; is that correct?

A That's the only two that I seen.

Q Now, you testified that you drove down to Linden, New Jersey. Did you see a convoy of cars chasing after your car that day? This is before the incident.

A No.

Q Did you see anybody following you or coming close to you?

A No, there was a lot of traffic on the turnpike, and I was busy talking with the fellow I was taking home.

and I didn't really pay attention if anybody was following me, because I had no reason, I had no money, you know, in the car.

Q One other point, Mr. DiGiorgio, you testified about crossing over some railroad tracks.

A Yes.

Q Do you remember that portion of your testimony?

A Yes, sir.

Q Well, in crossing over the railroad tracks, did a train come along and stop so that your vehicle was forced to stop?

A That day, no train stopped.

Q No train stopped.

Do you know whether those trains come back and forth through there?

A I get stuck every day there when I go to work. That day there were no trains. Every day I am stuck there. It's amazing. There was none going or coming that day.

MR. MARTIN: Thank you.

THE COURT: Mr. Hafetz?

MR. HAFETZ: No questions.

THE COURT: Mr. Hopper?

MR. HOPPER: No questions.

THE COURT: All right. Any redirect?

MR. KENNEY: No redirect.

THE COURT: You are excused.

(Witness excused.)

MR. KENNEY: Your Honor, if I may, we have two bank witnesses that we could call.

I call Mrs. Duda.

C E C E L I A D U D A, called as a witness
by the Government, being first duly sworn, testified
as follows:

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. KENNEY:

Q Where are you employed, Mrs. Duda?

A Meadowlands National Bank.

Q Would you try to keep your voice up a little
bit?

Could you tell us where that is?

A North Bergen, New Jersey.

Q How long have you been employed there?

A About a year and a half.

Q What are your duties?

A I am the supervisor in charge of bookkeeping and
transit operations in the bank.

Q Mrs. Duda, I show you what have been marked

Government's Exhibits 18, 19 and 20 for identification and ask if you can identify those documents.

A Yes, I can.

Q Would you tell us what Government's Exhibit 18 for identification is? Just what it is.

A 18 is a copy of a bank resolution on the Iodyce Corporation.

Q Would you tell us what Government's Exhibit 19 for identification is?

A That is a signature card on the same account, Iodyce Corporation.

Q Would you tell us what Government's Exhibit 20 for identification is?

A 20 is checks that were cashed on the account of Iodyce Corporation on a certain date.

Q Thank you.

Now, are you holding originals or copies?

A These are microfilm copies of original checks.

Q Did you make those copies yourself or were they made by someone else?

A They were made by a girl that works for me.

Q And did she make those copies at your direction?

A Yes, she did.

Q Are those three documents that you have in your

hand, Government's Exhibits 18 through 20 for identification, in your custody?

A In my custody?

Q Yes, are those documents, the original records of the bank, are they in your custody?

A Yes.

Q And are those records made in the regular course of the bank's business?

A Yes, they are.

Q And is it the regular course of the bank's business to make those records?

A Yes, it is.

Q Directing your attention to Exhibit 20 for identification, and specifically to the first full check which appears on the top, would you tell us who the signatory on that check is?

MR. MARTIN: I'm going to object to this, if your Honor please.

THE COURT: Sustained.

First show them.

(Pause.)

MR. MARTIN: May we approach the bench, your Honor?

THE COURT: You may.

(At the bench.)

THE COURT: Mr. Direnzo.

MR. DIRENZO: Frankly, this Exhibit 20 doesn't present any problem for me at this time. Apparently it is a bank account, a limousine service that Carroll had. That is one of his checks; no question. But these, I don't seem to see any connection at all. If I know the purpose for it, then I know how to approach it.

THE COURT: I assume it's just to show he had a bank account.

MR. MARTIN: These are different companies.

MR. KENNEY: Those records, your Honor, are the records of Iodyce Corporation. There has been testimony that Mr. Carroll cashed the check in a bar called Iodyce the night the crime was committed. That check was cashed on the Iodyce account the next day.

We are putting those records in as some evidence that the check was cashed.

MR. DIRENZO: I will stipulate that this check was cashed, save a lot of trouble.

MR. HOWER: That the check was cashed in the Iodyce account? You mean it was deposited in their account?

MR. KENNEY: Cashed against it. It wasn't deposited. Cashed against the account.

2 MR. HOPPER: Do you have a record that would
3 reflect that?

4 MR. KENNEY: This young lady can testify from
5 these documents as to whether it was deposited or cashed.

6 MR. HOPPER: This check.

7 MR. MARTIN: Was it deposited in there?

8 MR. KENNEY: No, it was not deposited. It was
9 cashed against the account.

10 THE COURT: Which check are you talking about?

11 MR. KENNEY: First check.

12 MR. DIRENZO: The hundred dollar check.

13 THE COURT: That's the only one?

14 MR. KENNEY: That's the only one we're interested
15 in.

16 THE COURT: In other words, Mr. Carroll signed
17 a check to cash, gave it to somebody in Iodyce, and they
18 deposited it or cashed it?

19 MR. KENNEY: Cashed it against their account
20 the next day.

21 THE COURT: Cashed it against their account.

22 MR. DIRENZO: I'm satisfied to stipulate that
23 we cashed the check.

24 MR. KENNEY: At this point, your Honor --

25 MR. MARTIN: If your Honor please, I'd like to,

1 as to the defendant Vincent McCloskey, I'd like to
2 exclude all of it. I don't think it's binding on him.
3 Certainly these other checks -- there are two other checks
4 that seem irrelevant on the bottom of it.
5

6 I don't see any purpose in that.

7 THE COURT: They come in as a result of necessity
8 of the photostating, I assume, of the microfilm.

9 MR. MARTIN: Can we cut it off?

10 THE COURT: Yes, we can do that. When it goes
11 to the jury for them to look at, we'll take care of it
12 then.

13 MR. MARTIN: My objection remains, then, for
14 Vincent McCloskey, on any admission.

15 THE COURT: Overruled.

16 Mr. Hafetz?

17 MR. HAFETZ: No objection.

18 MR. HOPPER: I have no objection.

19 THE COURT: All right.

20 MR. DIRENZO: My only point is I am ready to
21 stipulate --

22 THE COURT: Ask Mr. Kenney.

23 MR. DIRENZO: I will stipulate he cashed the
24 check.

25 MR. KENNEY: We'd like to put the rest of the

1
2 testimony in.

3 THE COURT: All right.

4 MR. DIRENZO: All right.

5 (In open court.)

6 MR. KENNEY: Your Honor, we offer Government's
7 Exhibits 18 through --

8 THE COURT: I think you ought to clarify through
9 the witness that the only check you are interested in in
10 Exhibit 20 for identification is which one?

11 MR. KENNEY: Yes, sir.

12 Q Directing your attention, Mrs. Duda, to the
13 first full check on the top of Government's Exhibit 20 for
14 identification, can you tell us what the name is that
15 appears on the signature bottom of the check?

16 A Thomas J. Carroll.

17 MR. KENNEY: That is the only check that we
18 offer, your Honor.

19 THE COURT: All right.

20 MR. DIRENZO: I have no objection, your Honor.

21 THE COURT: All right.

22 Objection of Vincent McCloskey is overruled.
23 The other two defendants have no objection.

24 (Government's Exhibits Nos. 18, 19 and 20 for
25 identification received in evidence.)

Q Now, I show you Government Exhibit 18. Can you tell us what company's name appears on that?

A 4404 Dell Avenue Corporation.

Q Does any other name appear on that form?

A Yes, on the seal is Iodyce Corporation.

Q Would you tell us what this is, Government Exhibit 18 for identification?

A That is a bank resolution on this company.

Q Is that resolution a statement by the corporation that this account is authorized by the corporation?

A Yes.

Q Now I show you Government Exhibit 19. Would you tell us what that is?

A The bank signature card showing the authorized signers on Iodyce Corporation.

Q Who are they?

A Raymond Engels, Carroll Drescher, and I can't make out the third signer too well, which is Carmen Nastasi.

Q I show you Government Exhibit 20. Can you tell us, was that check -- referring only to the first check -- cashed or deposited?

A The check was cashed.

Q Does it have any relation to the Iodyce Corporation account?

2 A Yes, it was cashed by Raymond Engels of the
3 Iodyce Corporation for Iodyce Corporation.

4 Q Can you tell us when it was cashed?

5 A April 6th.

6 Q Now, what is the date on the check?

7 A April 5th.

8 Q And how much is the check made out for?

9 A A hundred dollars.

10 Q Would you tell us how the check was made out?

11 A It's made payable to cash.

12 Q Is it endorsed on the back?

13 A Yes, it is.

14 Q How is it endorsed on the back?

15 A First endorser is Thomas J. Carroll and second
16 endorsement is Raymond Engels of Iodyce Corporation.

17 MR. KENNEY: I have no further questions of
18 this witness, your Honor.

19 THE COURT: Mr. Drenzo, any questions?

20 CROSS-EXAMINATION

21 BY MR. DIRENZO:

22 Q Miss, inviting your attention to Government's
23 Exhibit 20, the cashed check dated April 5th in the sum
24 of \$100, the signature Thomas Carroll appears there.

25 A Yes.

Q What was the name of the business?

A On the check?

Q Yes.

A The Meadowlands Car and Limousine Service.

Q Did you have a certificate of conducting business on file with the bank in the name of that limousine service?

MR. KENNEY: Objection, your Honor.

THE COURT: Overruled.

Q Do you know?

A No, sir.

Q You don't know?

A No.

Q You received, I take it, a subpoena to deliver these documents to this Court; is that correct?

A Yes, sir.

Q And when you were served that subpoena, did it also call for any and all documents and cancelled checks or microfilm checks on the Meadowland Cab and Limousine Service?

A No, sir.

Q Do you have those checks?

THE COURT: What.

Q Are there checks --

1
2 THE COURT: Is there an account there? She
3 says she doesn't know.

4 Q You don't know that there is such an account
5 at your bank?

6 A Not in our bank.

7 Q Not in your bank?

8 A No.

9 Q Oh, you are not with the Plaza Bank; is that
10 correct?

11 A Yes, sir.

12 MR. DIRENZO: No further questions.

13 THE COURT: Mr. Martin?
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CROSS EXAMINATION

BY MR. MARTIN:

Q How do you pronounce your last name?

A Duda.

Q And you don't have any idea when that check was written?

A No, sir.

Q Or where it was written?

A No, sir.

Q Or under what circumstances it was written?

A No, sir.

Q All you are testifying to is what you observed from your bank records?

A Yes, sir.

Q And that check passed through your bank records and was good and the money was paid against it?

A Yes.

Q It was not deposited into the account of Iodice, was it?

A No.

Q It was cashed some time on April 6?

A Correct.

Q So as far as you know that check could have been written on April 6 or April 4 and given to the one who cashed it at any time?

2 A Correct.

3 Q None of your records reflect any financial
4 transaction by Vincent McCloskey at any time in your bank?

5 A Not that I know of.

6 Q You searched your records before you came here?

7 A Yes.

8 Q And to your knowledge there is no record --

9 THE COURT: You are assuming she searched her
10 records for Vincent McCloskey in your question. Is that
11 what you are asking?

12 MR. MARTIN: Question withdrawn.

13 Q Do you know of any records, any financial records
14 involved with your financial institution relating to Mr.
15 McCloskey, Mr. Vincent McCloskey?

16 A Not that I know of.

17 MR. MARTIN: That is all.

18 THE COURT: Mr. Hafetz?

19 MR. HAFETZ: No questions.

20 THE COURT: Mr. Hopper?

21 MR. HOPPER: No questions.

22 REDIRECT EXAMINATION

23 BY MR. KENNEY:

24 Q Mrs. Duda, looking at Government's Exhibits 18
25 and 19 and 20, can you tell us approximately what time of

1
2 day that check was cashed at your bank?

3 A The check was cashed on April 6 showing trans-
4 action No. 58. April 6 is Friday. That transaction
5 would have had to be in the morning, some time in the
6 morning of April 6.

7 MR. KENNEY: I have no further questions.

8 MR. DIRENZO: I didn't hear the complete
9 answer.

10 THE COURT: She said this transaction must have
11 been some time in the morning of April 6.

12 RECROSS EXAMINATION

13 BY MR. DIRENZO:

14 Q In other words, the transaction debiting the
15 account as a result of that check occurred on April 6?

16 A Yes.

17 MR. DIRENZO: That is all.

18 THE COURT: You may step down. Thank you.

19 (Witness excused.)

20 MR. KENNEY: The government's next witness is
21 Miss Dunning.

2 R U T H D U N N I N G, called as a witness on
3 behalf of the government, being first duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. KENNEY:

7 Q Miss Dunning, will you tell us where you are
8 employed?

9 A Plaza National Bank. That is in Secaucus,
10 New Jersey.

11 Q How long have you been employed there?

12 A Five years.

13 Q What are your duties at that bank?

14 A I am the supervisor of bookkeeping.

15 Q I show you what has been marked Government's
16 Exhibits 21, 22, 23 and 24 for identification and I ask you
17 if you can identify those documents?

18 A Yes, I can.

19 Q Will you tell us how you can identify them?

20 A Well, one is a photostat of a check that had
21 come through our bank on one of our customers; 22 is the
22 signature card for the same account; 21 is the bank
23 resolution for that particular account, and 24 is the state-
24 ment showing where the debit was posted to that account.

25 Q Are those original records or are they copies?

1 A They are copies.

2 Q Did you make the copies yourself or someone else?

3 A No, I had someone else make them.

4 Q Were they made at your direction?

5 A Yes.

6 Q Are you the custodian of the original records
7 which are at the Plaza National Bank?

8 A Yes.

9 Q Are those records made in the regular course of
10 the bank's business?

11 A Oh, yes.

12 Q And is it the regular course of the bank's
13 business to make those records?

14 A Yes, it is.

15 MR. KENNEY: May I show those exhibits to Mr.
16 Dorenzo, your Honor?

17 THE COURT: Show them to all defense counsel.

18 MR. DIRENZO: On behalf of the defendant Carroll
19 no objection, your Honor.

20 MR. MARTIN: I object on behalf of the defendant
21 Vincent McCloskey.

22 THE COURT: Objection overruled.

23 MR. HAFETZ: No objection.

24 MR. HOPPER: No objection.

(Government's Exhibits 21, 22, 23 and 24

for identification received in evidence.)

Q Now, Miss Dunning, I show you Government's Exhibit 21. Can you tell us what that is?

A It is a bank resolution.

Q What is the content of that resolution?

A Well, it is just -- well, it's an unincorporated account.

Q What is the name of the account?

A Meadowland Cab & Limousine Service.

Q Is there any individual represented on there?

A Yes, Thomas Carroll.

Q Now, I show you Government's Exhibit 22. Can you tell us what that is?

A It's a signature card.

Q For whom?

A For Meadowland Cab & Limousine Service also.

Q Whose signature appears on it?

A Thomas J. Carroll.

Q I show you Government's Exhibit 23 for identification. Will you tell us what that is?

A It's a check drawn on that account, the Meadowland Cab & Limousine Service.

Q How much is that check for?

1 A \$100.

2 Q Who is it payable to?

3 A Cash.

4 THE COURT: What is the date?

5 Q I am going to ask you if you have compared that
6 check with Government's Exhibit 20 for identification
7 before you came to testify?

8 A Yes.

9 Q Is that the same check?

10 A Yes.

11 Q Tell us what the date is on that check.

12 A April 5, 1973.

13 Q Can you turn the check over and tell us who
14 endorsed it?

15 A Thomas J. Carroll.

16 Q Are there any other endorsements on it?

17 A Yes, there are.

18 Q What are they?

19 A Well, it looks like R. Ingles -- I can't quite
20 read it. This is not our account, the other endorsement.

21 Q I show you Government's Exhibit 24. Tell us
22 what that is.

23 A Yes, it is a monthly statement for the month
24 of April.
25

2 Q Does that have any entry on it with regard to
3 that particular check?

4 A Yes, to show the date that particular check was
5 paid.

6 MR. KENNEY: I have no further questions of this
7 witness.

8 MR. DIRENZO: May I see the exhibits, please.

9 CROSS EXAMINATION

10 BY MR. DIRENZO:

11 Q I invite your attention to Government's Exhibit
12 22. There is a signature of one, Thomas J. Carroll?

13 A Yes, sir.

14 Q Will you turn that over and look at the same
15 exhibit. Does that establish the location of that busi-
16 ness?

17 A 1512 41st Street, North Bergen.

18 Q It shows exactly where the checks are to be
19 sent? Is that correct?

20 A Yes, sir.

21 Q The bank statements?

22 A Statements and cancelled checks.

23 Q Cancelled checks and statements?

24 A Yes, sir.

25 Q Incidentally, have you ascertained or verified

2 the fact that that is the home address of Thomas Carroll?

3 A No, sir, I have not.

4 Q You don't know that to be a fact? And
5 Government's Exhibit 21 establishes that this is an
6 unincorporated business or an account in the name of
7 Meadowland Cab & Limousine Service? Correct?

8 A Yes, sir.

9 Q Does that exhibit reflect the fact that the
10 actual depositor or owner of that account is Thomas J.
11 Carroll?

12 A Yes, sir.

13 Q It is reflected on that document? Correct?

14 A Yes, sir.

2 15 Q There is no address on that document? Is that
16 correct?

17 A No, sir.

18 Q The bank statement is directed to Meadowland
19 Cab & Limousine Service in care of Thomas J. Carroll,
20 1512 41st Street, North Bergen, New Jersey? Is that also
21 correct?

22 A Yes, sir.

23 Q Incidentally, on one of these exhibits do you
24 also have the home number of Thomas J. Carroll, home
25 telephone number?

1
2 A Yes, sir.

3 Q What is that number, please?

4 A 348 1481. That, I don't believe, is a home
5 phone number.

6 Q You do not believe that?

7 A No.

8 Q What makes you say that?

9 A Because it is put alongside the address of the
10 business, which is 62 County Avenue, Secaucus.

11 Q Have you checked to ascertain where that telephone
12 is located?

13 A No, sir.

14 Q In other words, you are saying you don't think
15 that is his telephone number? Is that correct?

16 A I have no idea whether it is or not.

17 Q And you have never checked it, so you really
18 don't know?

19 A I don't know.

20 Q Inviting your attention to Government's Exhibits
21 20 and 23, I think it is one and the same check, is that
22 correct, the \$100?

23 A Yes.

24 Q And it is signed by Thomas Carroll?

25 A Yes.

Q And ultimately it was debited to the Plaza National Bank account?

A Yes.

Q So that whoever presented that check for payment had no difficulty knowing that the limousine service check was actually one issued by Thomas Carroll? Correct?

A Correct.

Q It would also establish at your bank where the address was that Mr. Carroll could be located?

A Yes, sir.

Q It would likewise establish the telephone number that Mr. Carroll could be reached at? Correct?

A Yes, sir.

MR. DIRENZO: Thank you so much.

CROSS EXAMINATION

BY MR. MARTIN:

Q Do you know of any records that your bank may have concerning a Vincent McCloskey?

A No, sir.

Q Is there a payroll department in your bank?

A No, not actually.

Q Does somebody prepare payrolls?

A Oh, yes.

Q They have a payroll ready to be sent out?

2 A Yes, sir.

3 Q Do you know who does that at your bank?

4 A That would be downstairs; that would be the head
5 teller in the bank.

6 Q Do you know if the head teller is subpoenaed
7 here today?

8 A I don't know.

9 Q Did you bring all the records that the govern-
10 ment asked you to bring?

11 A Yes.

12 Q Do you know a John Turner?

13 A No, sir.

14 Q Did you ever hear the government ask you to
15 bring any records in concerning a Jack Turner or a John
16 Turner?

17 A No, sir.

18 MR. MARTIN: No further questions.

19 MR. HAFETZ: No questions.

20 MR. HOPPER: No questions.

21 THE COURT: You may step down.

22 (Witness excused.)
23
24
25

2 G E O F F R E Y M A T T H E W S M A N N , r e s u m e d .

3 (Mr. Murray Mogel, attorney for Mr. Mann,
4 took a seat near the witness chair.)

5 THE CLERK: The Court wishes you to know that
6 you are still under oath.

7 THE WITNESS: Yes.

8 DIRECT EXAMINATION CONTINUED

9 BY MR. KENNEY:

10 Q Mr. Mann, when you stopped last night you were
11 telling us what you had done on the afternoon of March 29,
12 1973, a Thursday, and you recall that you marked a place on
13 the map where you stood on the sidewalk and the station-
14 wagon went by. Will you tell us, after the stationwagon
15 went by, what did you do?

16 A Well, at that time I signalled Harry to come to
17 my side of the street. Then Tommy pulled up in his car
18 and we got in. We went down to Maiden Lane.

19 Q When you went to Maiden Lane did you meet anyone
20 there?

21 A Yes, Mike, Jack and Chester were down there.

22 Q Was there a conversation at that time?

23 A Yes, there was.

24 Q Will you tell us what was said?

25 A I asked Mike how come he didn't stop, and he

said he didn't see us. So I said, "Well, we will try again tomorrow." So at that time Chester, Harry and I got in Chester's car and we left the area.

Q Where did you go?

A We went to pick up Terry's car in back of the Met.

Q Did you meet Terry at any time that day?

A Yes.

Q Where did you meet him?

A At the airport.

Q Did you take his car to the airport?

A Yes.

Q After you met Terry at the airport what did you do?

A Well, Chester then said we were going to take a trip up to Pennsylvania to see about hijacking a truck.

Q Where did you go?

A From that point we went down to South Third Street, and in the area there, under the elevated highway.

Q Was this in the Williamsburgh area or was this in the Wall Street area?

A The Williamsburgh area.

MR. DIRENZO: To keep the record clarified, this is all under one continuing objection, also with the

same motion and the same ruling?

THE COURT: And the same ruling.

Q What did you do when you reached the South Third Street area?

A We left Terry's car there.

Q What car did you have with you at this point?

A Chester's.

Q Who was in Chester's car?

A Chester, Harry, Terry and myself.

Q Where did you go?

A We went to a pizza joint in some big shopping center somewhere in New Jersey.

Q Did you meet anyone there?

A Yes, we did.

Q Who did you meet there?

A We met Jack and Mike at the time.

Q Jack and Mike?

A Yes.

Q Did you meet anyone else?

A Another fellow that Mike said was his brother.

Q Do you recall his name?

A Billy or something like that.

Q Do you see that person in the courtroom today?

A No.

Q After you met Jack and Mike and Billy where did you go?

A When we went out of the pizza joint Tommy was there. They said they were going to meet us up the road somewhere. Chester knew where it was. I didn't.

Q Did you go any place then?

A Yes.

Q Tell us where you went.

A Well, Harry and Terry were in Chester's car. I was with Mike and who he said was his brother in the stationwagon.

Q Was there any other car?

A There were three.

MR. DIRENZO: I ask that that portion of his answer where he said "brother" be stricken.

THE COURT: The witness said he was introduced to the man as his brother.

Q Will you tell us who was in the third car, if you know?

A Tommy and Jack.

Q Where did you go at that point?

A We went on the highway. I don't know where we were going.

Q Did there come a time when you turned around and started back to New York?

A Yes.

Q What time of day was that?

A This was something like four or five hours after we had left.

Q When you returned to --

THE COURT: I have no conception of the time. What time are you talking about?

Q What time of day are you talking about?

A We came back -- this must have been two or three o'clock Friday morning.

THE COURT: What time did you go to the pizza place where you met all these people?

THE WITNESS: It must have been around 11 o'clock Thursday night.

THE COURT: 11 o'clock on March 30?

MR. KENNEY: The 29th.

MR. MARTIN: May I ask that the United States Attorney be prevented from making comments on the evidence?

THE COURT: He is not making comments.

MR. MARTIN: I think he volunteered.

THE COURT: I am sorry, Mr. Martin. Go ahead, Mr. Kenney.

Q When you started back towards New York how many cars did you have with you?

A We had two.

Q Which car was not with you?

A Pardon?

Q Which car wasn't with you?

A The stationwagon.

Q Where was that car?

A It was still at the truck stop.

Q Did you have any conversation with anyone about that car before it was left at the truck stop?

A Chester came back and said they were going to leave that car because it was a hot car.

Q Where did you go when you headed back to New York?

MR. MARTIN: If your Honor please, there is no testimony that they left New York.

THE COURT: He said he went to New Jersey, to a pizza place in New Jersey.

MR. MARTIN: I don't believe that was the testimony.

THE COURT: (To the court reporter) Go back in your notes and read it to Mr. Martin.

(Testimony read.)

BY MR. KENNEY:

Q Mr. Mann, will you tell us if you know where you were when you left the stationwagon and turned around

headed towards New York?

A Somewhere in Pennsylvania.

Q After you left Pennsylvania --

MR. MARTIN: I must object to that. There is certainly no testimony about Pennsylvania in there. Objection withdrawn.

Q Mr. Mann, after you left Pennsylvania where did you go?

A We came back to the Met Motel.

Q Who was with you at that point?

A Chester, Terry and Harry.

Q What time of day did you reach the Met Motel?

A It must have been 9, about 9 o'clock in the morning.

Q What did you do?

A We went to sleep.

Q And what time did you get up?

A I would say around 11 or 12.

Q What day of the week are you talking about at this point?

A Friday.

Q Do you know the date?

A The 30th.

Q And when you got up did you meet with Chester?

A Yes.

Q Would you tell us who met with Chester besides yourself?

A Harry and Terry.

Q What time did you meet with Chester?

A This was around 11, 12, around that area.

Q After you met with Chester did you go any place?

A Yes.

Q Where did you go?

A Well, we proceeded to South Third Street to pick up Terry's car. From there we separated. Terry went back to visit some people, and Harry, Chester and I, we rode around New York, like we always do.

Q Did you meet with Terry again?

A Later on, yes.

Q When did you meet with him?

A Well, at Katz's Delicatessen.

Q Did you meet anyone else at Katz's Delicatessen?

A Yes, sir.

Q Who else did you meet there?

A Tommy, Jack, Mike. Chester and Harry were with me.

Q What time of day was that?

A Around 5.15.

Q And when you met there did you have a conversation?

A Well, yes.

Q Do you recall what conversation was?

A Basically, we just decided we were going to do the job that day. All the equipment was there, plus Chester said they required a van.

Q Did there come a time when you left Katz Delicatessen?

A Yes, sir.

Q When you left the delicatessen, whom did you leave with?

A I left with Harry, Chester.

Q Where did you go?

A Well, we went to look for Terry.

Q Did there come a time when you found Terry?

A Yes.

Q After you found Terry what did you do?

A Well, we proceeded to park Terry's car not too far from Katz, and from there we just proceeded down to Maiden Lane.

Q Now, when you reached Maiden Lane did you meet anyone there?

A Yes.

2 Q Who did you meet there?

3 A Mike and Jack and Tommy.

4 Q Did you meet anyone else there?

5 A Not at that time, no.

6 Q Did you do anything after you met them?

7 A Yes. Terry and I changed clothes, and Terry
8 got the pistols from Chester, and we stood in the back of
9 the van.

10 Q Where did Chester get the pistols from, if you
11 saw him?

12 A He had it in a little briefcase in a paperbag.

13 Q And when you got in the van was there anyone
14 else in the van?

15 A Yes.

16 Q Who was in the van?

17 A Mike was in there.

18 Q Did you go any place after you got in the van?

19 A Well, there was a fellow came down to the van
20 and said that the truck was in.

21 Q Who was that fellow?

22 A The same fellow I met previously that day -- the
23 day before.

Q Well, would you tell us who introduced him to you the day before?

A Mike introduced me the day before.

Q Is this the man that Mike introduced you to as his brother?

A Yes.

Q That was the same person?

A Yes.

Q After he said the truck was in, what did you do?

A Well, Terry and I, along with Jack, proceeded to walk up to a predetermined spot.

MR. KENNEY: Your Honor, I think perhaps if the witness comes to the chart, it will facilitate this examination.

THE COURT: Go to the chart, please.

(Witness at chart.)

Q Now, do you recognize this chart at this point?

A Yes, sir.

Q And can you tell us where the Peck Slip post office is on that chart?

A Where it's marked with this "X."

Q Could you tell us where you were in the van?

A Right in here.

MR. KENNEY: May the record reflect he's indicating

on South Street, just north of Peck Slip.

Q Would you describe to us what you did?

A Well, Terry and myself and Jack, we walked along up here and crossed over and Terry was stationed here, I was stationed on this side, and Jack was over here.

Q And what happened after you reached those positions?

A Approximately ten minutes, we saw the van coming, we saw the post office truck behind it, and it stopped, so I was waiting, you know; the van came across, but the post office truck kept on going. So that is when Terry came over, told me that a car had pulled out, as he was getting ready to jump on the truck.

MR. KENNEY: Your Honor, may the record reflect the witness is indicating that Terry was standing on the corner of Fulton and West Pearl Street. That would be the northwest corner; that he was standing someplace near the southeast corner of Fulton and West Pearl Street, and that Turner was standing somewhere near the southwest corner of the same intersection.

THE COURT: Yes.

Q After Terry Myers came over and spoke to you, did you do anything?

A Yes, we got in Chester's car and went away, and

came back down here.

Q And after you reached the area of Peck Slip, did you meet with anyone?

A There was just Chester, Terry, Harry and myself. The others had dispersed.

Q And did you have any conversation that you can recall when you reached Peck Slip?

A Yes. We told Chester that we had to head back and that we had to get some work done on Terry's car and we'd try to get back up. Because at that time we were indefinite as to whether we were going to do it or not because of the mess up all week long, you know. This wasn't going right. So we decided to leave.

Q When you left, where did you go?

A We went back to pick up Terry's car and from there we left the city.

Q How many cars did you leave the city in?

A Just one.

Q Who was with you?

A Harry, Terry and myself.

Q Where did you go?

A D. C.

Q After you reached Washington, did there come a time when you returned to New York?

2 A Yes.

3 Q Would you tell us when that was?

4 A That was the next Wednesday, Wednesday night.

5 Q Would you know the date?

6 A The 4th of April.

7 Q When you returned to New York, where did you go?

8 A To the Met Motel.

9 Q Who was with you at that time?

10 A Harry and Terry.

11 Q How did you return to New York?

12 A In Terry's car.

13 Q When you reached the Met, did you meet with
14 anyone at the Met Motel other than Harry and Terry?

15 A No, not that night.

16 Q On the next day did you meet with anyone?

17 A Yes, Chester came.

18 Q What time of day was that?

19 A About 10:00, 11:00 o'clock.

20 Q After Chester came over, did you go anyplace?

21 A Yes, we went again downtown and Terry separated
22 from us and Harry, Chester and myself just rode around.

23 Q Did there come a time where you actually went
24 someplace?

25 A Yes, we went around 5:00 o'clock, we went to Katz'

jkmch 5

Mann-direct

delicatessen.

Q When you reached Katz' delicatessen, did you meet anyone there?

A Yes, Tommy, Jack and myself.

Q Where was Terry at that time, if you know?

A He was somewhere.

Q He was not present?

A No.

Q Did you have a conversation at Katz' delicatessen on that day?

A Not too much; just the regular, today was the date.

Q Nothing other than that that you can recall?

A Nothing in particular, no.

Q Did there come a point when you left Katz' delicatessen?

A Yes.

Q Who did you leave with?

A I left with Harry and Chester.

Q Where did you go?

A We went down to FDR highway looking for Terry.

Q Did there come a time when you found Terry?

A Yes, we found him, when we got back to Katz'.

Q Was he outside Katz' or inside?

1 A Outside.

2 Q After you found Terry, what did you do?

3 A We went and parked his car back down on the FDR
4 and Houston Street, and we took clothes out, both of us
5 changed up and we left one change of clothes in Chester's
6 car.

7 Q Would you try to keep your voice up just a
8 little bit?

9 A Yes, we changed clothes and we had one change
10 of clothes in Chester's car.

11 Q After you changed your clothes, where did you go?

12 A Went back down to South Street.

13 Q Are you indicating on the map where you were?

14 A Yes, right here.

15 MR. KENNEY: May the record reflect the witness
16 is indicating the same place he has previously indicated,
17 South Street, just north of Peck Slip.

18 Q And after you met there, what did you do?

19 A That is when we went to the van again.

20 Q You went to the van?

21 A Yes.

22 Q And what did you do when you got to the van?

23 A We waited, I believe it was Chester said that
24 the same fellow that was coming back and tell us when the
25

van was in again.

Q What did you understand Chester to mean, when the van was in again?

MR. MARTIN: I object, if your Honor please.

THE COURT: Overruled.

A We meant that the same fellow that came the other time was coming back and let us know when the van was in the post office, so we know what time to leave.

Q When you say the van was in the post office --

A I mean the truck.

Q The postal truck?

A Yes.

Q And did that happen, did somebody come and tell you that?

A Yes, Tommy came at that time, and yelled up at the window.

Q What did he say to you?

A He said, the truck is in.

Q And after Tommy said the truck is in, what did you do?

A Terry and I got out and proceeded the same way. Jack had already, was already out in the street, and proceeded to our spots, but we noticed a police car parked approximately right here. It was empty, but it was

1
2 there, and also over here somewhere was a car parked with
3 two people in it.

4 So we decided not to do it. So we called Jack
5 from over here, we came back, and yelled up to Mike,
6 and said, "No good," so we walked down, and Tommy was
7 over here, parked in this parking area. We got into
8 Chester's car and told him that there was a police car
9 up there and also that there was another car with a couple
10 of people in it.

11 He say, "Well, that's okay. We have another
12 spot that we can do it."

13 And I asked him, "Are you sure there's enough
14 time?" and he said, "Yes."

15 So we pulled around here, and yelled over to
16 Tommy, "We're going to go up by Beekman." So then we
17 pulled up here, and yell up to Tommy, Jack was in the
18 truck with him, I mean yell up to Mike, Jack was in the
19 van with him, and said, "Just stop when you see him on
20 the street, up by the hospital."

21 So from there, Chester rode along the route of
22 the red line here, up to here. So we drove up here, and
23 one complete turn around the block, and we say, "Well,
24 the spot about here looks good," because it was deserted
25 and there was some buildings, but there wasn't any traffic.

1
2 MR. KENNY: May the record reflect, your Honor,
3 that the witness is pointing at Beekman Street in the area
4 of Nassau and Gold.

5 Q Would you show us, Mr. Mann, where you got out
6 of Chester's car?

7 A Right here.

8 Q And did Terry get out of the car the same time?

9 A Yes.

10 Q After you got out of the car, what did you do?

11 A Well, we stood, because there's a parking lot
12 for the hospital right here, and we stood there, wasting
13 some time. Then, say five minutes, saw the van pull
14 around, with the postal truck following it. That's when
15 I proceeded across the street to get on the driver's side.

16 Q Please try to keep your voice up. I can't
17 hear you.

18 A Went across the street to the driver's side.

19 So, the van stopped, and a few seconds, the
20 driver looked over to the guard side, that's when I heard
21 a sound of a gun going off. So that's when I proceeded
22 to the driver's side of the truck, and it was open --
23 reaching opening the door and the door opened at the same
24 time and the driver got out of the truck. That's when I
25 saw the guard slumped. So I grabbed the driver by the arm

and went to reach for the van, but at that time the van was leaving. So when I tried to let go of the driver, to try to catch up to the van, to knock on it so he would stop, but that didn't work, so the driver started to run. That's when I fired at him. And then --

Q Which way on the amp did the driver run?

A Down the street here.

Q And when he started to run, would you tell us

MR. MARTIN: Excuse me, if your Honor please, may the witness move back so I can see and hear him?

THE COURT: Down the street here, he indicated down William Street.

Q And Mr. Mann, would you tell us just what you did when the driver started to run?

A Well, I turned, and I said, "Hold it," and at that time there was a woman screaming or something over there. Anyhow, that's when I fired at him.

Q How many times did you fire at him?

A Four.

Q Did he continue to run as you were firing at him?

A Yes, he did.

Q Could you tell whether you struck him or not?

A No.

Q After you stopped firing at the man running down the street, what did you do?

A Terry said, "Let's go." Because at that time the van was up here somewhere.

Q And where did you go?

A After the van.

Q How did you go after the van?

A Fast. I mean, we ran.

Q You were on foot?

A Yes, right.

Q And would you show us, if you can, on the map where you ran?

A Well, I was here, running up this way, and I couldn't catch it. He was rolling. Terry finally caught up with him about here, and he turned around, and then he went into the van, and finally stopped approximately this area.

So I finally got on it, and then we drove off.

MR. MARTIN: Excuse me, your Honor. May we have it marked where he said he got onto the van?

THE COURT: Yes. I would say it would be around just behind the "E" of Spruce.

MR. MARTIN: May he mark it on the map, please?

THE COURT: Sure. Where you got onto the van.

Let's use a "Z."

(Witness marked on chart.)

MR. KENNEY: May the record reflect, your Honor, that the witness has indicated that Myers caught up to the van at about the --

THE WITNESS: Up here.

MR. KENNEY: -- the southeast corner of Nassau and Spruce Street.

THE COURT: On Nassau.

MR. KENNEY: On Nassau.

MR. MARTIN: May we also have that marked, your Honor?

THE COURT: We don't have a "Y."

(Witness marked chart.)

THE COURT: Make it "D."

THE WITNESS: Which do you want?

THE COURT: Oh, you put the "Y" there. Leave the "Y" there. Thank you.

MR. KENNEY: Your Honor, I believe the witness could return to the witness chair.

THE COURT: All right.

(Witness resumed stand.)

Q Mr. Mann, after you got into the van, who was in the van?

2 A Terry was in back with me, and Mike was driving.

3 Q And did you see Jack in the van?

4 A No.

5 Q After you got in the van, was there a conver-
6 sation of any kind?

7 A Yes.

8 Q What was said?

9 A I said, I asked Mike, "What -- what are you
10 doing?" You know. I wondered why he was leaving.

11 He said, "Oh, I thought you were going to take
12 the subway."

13 Q Was anything else said, if you can recall?

14 A Yes, Mike said, "Don't forget to get rid of
15 the pistols."

16 Q Now, could you tell us where you got the pistols
17 on that day?

18 A From Chester.

19 Q And did you see where Chester got the pistols
20 from?

21 A No. He told me, but I didn't see where he got
22 them.

23 Q What did he say?

24 A He said he got them from Mike.

25 MR. DIRENZO: Objected to.

THE COURT: Overruled.

Q Directing your attention to the time that you testified that you returned from that small triangle which is formed by Pearl, West Pearl and Fulton Streets, to the Peck Slip area, and you spoke or went by the car that Tommy was in, in the Peck Slip area -- do you recall that testimony?

A Yes.

Q -- was there anyone else in that car?

A The same fellow that was -- Mike said it was his brother.

Q Where did you and Mike and Terry go after you got in the van?

A Well, we ended up on Houston Street and FDR Drive.

Q Did you get out of the van at that point?

A Yes.

Q Where did you go?

A I proceeded across the FDR Drive to a field and that is where I disposed of my weapon and cap.

Q And this field was facing out at the water, was it?

A Yes.

Q When you said you got rid of your equipment,

will you tell us what you are referring to?

A My revolver and my cap I was wearing.

Q What did you do with your revolver?

A I broke it down, and put it in about two different trash cans, after wiping it off.

Q Did there come a time when you left that field?

A Yes.

Q Where did you go?

A I went back across to reach Terry, because he had already gone to his car, but he had pulled off. And at that time there was a patrol wagon come along, so I took off my coat and ducked into an apartment building.

Q What do you mean by "patrol wagon"?

A Police wagon.

Q Where did you go after you took your coat off?

A I walked up Houston Street to Katz' delicatessen.

Q When you reached Katz', did you go inside?

A No, not at that time.

Q What did you do when you reached Katz'?

A I looked in the window to see if anybody was in there, because I thought that would be where they would come, to see if everything was okay, but there wasn't anybody there, so I waited about fifteen minutes, and I saw Terry drive up on the opposite side of the street.

2 So I went over to him and I asked him, "Did
3 you see anybody?"

4 He said, "No, it looks like everyone left."

5 MR. DIRENZO: Objected to, again, your Honor.

6 THE COURT: Overruled.

7 A At that time he had the two numbers that
8 Chester had given us to get in touch with him. So he
9 went in and placed the calls, but he didn't get the
10 answer. So we waited ten, fifteen minutes more. Still
11 didn't see anybody. So he called again, and he did get
12 one of the numbers. But the woman who answered said there
13 wasn't any message.

14 So at that time we said, "Well, we can't stay
15 around here," so on a hunch he was going back to Maiden
16 Lane or Peck Slip and see if anybody showed up back there,
17 so, as we were going along down South Street, we heard
18 somebody yell out, so I got out of the car, and Terry
19 swung back and picked up Harry. So we asked him what
20 was he doing down there. He said Chester put him out
21 of the car and left.

22 Q And did Harry get in your car?

23 A He got in Terry's car, yes.

24 Q After Harry got in Terry's car, did you go
25 anyplace?

1 A Yes, we tried to decide exactly what to do,
2 because we were low of funds and all of our clothes
3 was in Chester's car, except for Terry, he had a change,
4 but mine were in his car and I was still walking around
5 in the same clothes I had on, so we decided to try to
6 find this Wall's Tavern.

7
8 So, it took us about an hour, because we got
9 lost a couple of times, and we finally arrived at Wall's.

10 Q What time of day was it when you arrived at
11 Wall's Tavern?

12 A It was, I imagine, around 8:00 o'clock.
13 I don't know. Time went kind of --

14 Q When you arrived, did you go inside?

15 A Terry went in first because we still didn't
16 know what was going on.

17 Q And did there come a time when you went in?

18 A Yes.

19 Q How much later did you go in?

20 A Well, after about five minutes, Harry went in,
21 came back out and say Terry was in there with Tommy and
22 Jack. I say, "Well, solid."

23 "You park the car and I will go in there."

24 So I went in there, and Tommy and Terry and
25 Jack were in the back room. So I say, "What happened," you

know, "Where was everybody?" I said, "Mike left us like some dogs out there in the street."

He say, "I don't know." Jack was saying, well, they didn't leave until after all the shots were fired.

And I told Jack, "I didn't even see you. I don't even know you were there."

So he say, "Well, we were there, but the shots went off, so we thought it was a good time to leave."

And I said, "Yeah."

So, I asked Tommy. I said, "Where's Chester?"

He said, "Nobody knows."

So he told Jack to call up. So Jack called and say he didn't get an answer. So about that time, Harry came in. And then about ten minutes later, Mike and another fellow came in.

Q Who was that other fellow, do you know?

A The same fellow he said was his brother.

Q Did you have a conversation with Mike or the man he had introduced to you as his brother?

A Yeah. He said that he heard on the radio that the guard had been killed and the driver had been injured.

Q Who said this?

A The fellow.

Q Mike or the other person?

A The other person.

Q And did he say anything else?

A No, that's all he said.

Q Now, did Mike say anything at that time?

A No. No.

Q Was there any other conversation that you can recall while you were in that tavern?

A Yes. Tommy called Chester again, because, you know, I told him I didn't have any clothes, the same things. So he went to the phone, and he finally got in touch with Chester. So he said Chester was running around somewhere with his kids and his wife. He went home and got his wife and his kids; I guess, I don't know why. So he told him to come over, because "you got the man's clothes." So Chester showed some reluctance in doing this. So he said, "Come on over."

So he said okay, he was coming over.

So, from there, Tommy said, "Well, we have to move, because this place might be bugged." And so we decided to go down to the second tavern.

Q What was the name of that tavern, if you recall?

A I don't know.

Q How far away from the first tavern was it?

A About a half a mile, a mile.

Q How did you get to the second tavern?

A With Terry.

Q Did anyone go with you and Terry?

A Harry, Terry and myself.

Q Did you go in Terry's car?

A Yes.

Q When you reached the second tavern, did you go inside?

A After about five, ten minutes, yes.

Q Can you tell us what time of day that was?

A I imagine around 9:00 or 10:00.

Q After you went inside, did you meet anyone?

A Yes. Finally, Tommy, Mike, Jack came down.

Q And did you have a conversation in the second tavern, that you can recall?

A No. I wasn't talking to anybody at that time.

Q Did you see Mike's brother again that day?

A No, I didn't.

Q What did you do in the second tavern?

A Well, got something to eat, and we played, they got a pool table in there, so we was messing around with the pool table; and then about an hour, hour and a

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half later, Chester comes in, and he was talking to Terry.
I didn't talk to him.

Q And can you tell us, was there any other conversation in the second tavern that you can recall?

A No. Terry came over to me, said that Tommy was going to give us some money for motel room and some pocket money, and that he was going to get in touch with us tomorrow.

Q Did anyone give you any money?

A No.

Q Did you see Tommy do anything?

A I went up to the bar, and Tommy said that he had cashed a check and gave Terry money enough for some --

MR. DIRENZO: Is this still under the same objection, your Honor?

THE COURT: Yes.

A -- gave him some money for lodging, food and gas.

Q Did Tommy say how much the check was for?

A No.

Q Did anything else happen that you can recall at the second tavern?

A No, that's about it.

Q When you left the second tavern, where did you

2 go?

3 A We want to a motel.

4 Q Who was "we"?

5 A Terry, Harry and myself.

6 Q Do you remember the name of that motel?

7 A I remember a little of the turnpike. I don't
8 remember the name right now.

9 Q Did you stay there that night?

10 A Yes, we did.

11 Q Now, the next day, did you meet with anyone?

12 A No. We were waiting for a phone call. I think
13 check-out time was 1:00 o'clock, so we waited until some-
14 thing like 12:30, but we didn't hear from anybody.

15 Q Did you talk to anyone?

16 A No.

17 Q Did there come a time when you left that motel?

18 A Yes.

19 Q When you left the motel, where did you go?

20 A Came back to D.C.

21 Q Was that Terry, yourself and Harry?

22 A Yes.

23 Q After you returned to Washington, did you talk
24 to anyone that you testified about other than Terry and
25 Harry?

2 A No.

3 Q Could you tell us when you were arrested?

4 A June 6th, 7th, something like that.

5 Q And since you were arrested, have you ever been
6 in the same cell with Jack Turner?

7 A No.

8 Q Have you ever been in the same cell with Chester
9 Crawford?

10 A No.

11 Q Have you ever seen either of those two people?

12 A I have seen them, yes.

13 Q And where did you see them, if you recall?

14 A Downstairs in the holding tank.

15 Q Did you have an opportunity to speak to them?

16 A No.

17 Q Have you ever been in the same cell with Terry
18 Myers?

19 A Yes.

20 Q And have you had an opportunity to talk with
21 him about this case?

22 A Yes, we've talked.

23 Q Have you talked with him about the case?

24 A Yes.

25 Q Have you talked to him about the facts that

you are testifying to?

A Yes, yes, we talked, yes.

MR. KENNEY: May I have just a moment, your Honor.

(Pause.)

Q Mr. Mann, I show you Government's Exhibits 15, 16 and 17, marked for identification, and ask if you can identify those three exhibits?

A Yes, I can.

Q And would you tell us what they are?

A They're receipts signed by myself.

Q Does your signature appear on them?

A All three, yes.

Q When you say, "Receipts," could you tell us what you mean by that?

A Like the stub for the motel rooms.

MR. KENNEY: I am showing them to defense counsel.

THE COURT: Yes.

(Pause.)

MR. MARTIN: May I have a voir dire on this, if your Honor please.

THE COURT: Yes.

Go ahead.

VOIR DIRE EXAMINATION

BY MR. MARTIN:

Q I show you this card marked Government's Exhibit 17 and ask you to look at that. Your signature does not appear on there, does it?

A Yes, that's me.

Q Will you show me where?

A Over here.

Q You are saying that is your handwriting?

A Yes, it is.

Q Is that printed?

A Yes, it is.

Q Is that how you sign your signature?

A At times, yes.

Q And that time that was the way you signed it?

A Yes, this is my handwriting, yes.

Q But it is printed, is it not?

A Yes, it is.

Q And do you remember specifically printing it?

A No, I don't remember that, no.

Q Is there any reason why you printed it instead of signing it?

A It might say on there, "Please print," I don't know.

Q Will you show me where, please?

A I don't know.

No, it don't say it, no.

Q It doesn't say it?

A No.

Q It was your idea to print it?

A Yes.

Q Was anybody else with you when you made out that card?

A I don't remember if they were right there in my presence or not.

Q Do you know what motel it was for?

A The Met, by the date.

Q You don't know the date, either?

A The date's marked on here, 28.

Q Is that when you say you registered in there?

A I must have.

Q When you say you must have, is the only reason that you say you registered there is because you saw that card?

A Yeah.

Q Do you independently remember registering in there on March 28th?

A I remember registering, but I don't know what

1
2 day it was, no.

3 Q You don't remember what day you registered?

4 A No. A couple of times.

5 Q I show you this card marked Government's Exhibit 16
6 and ask you if you signed that card.

7 A Yes, I did.

8 Q But there is no signature on there, is there?

9 A Well, I call it the same thing.

10 Q But there is no signature, isn't that correct?

11 THE COURT: He printed his name, is what he's
12 saying.

13 Q Where you fill it in, you printed your name?

14 A Right.

15 Q But there is a portion for a signature, is
16 there not, and you didn't sign it?

17 A No, there isn't.

18 Q Let me show you this section of the card.

19 A Where?

20 Q Did you sign it anyplace toward the bottom of
21 that card?

22 A No. It sayd the date and the rate. It doesn't
23 have the signature.

24 Q You just printed your name?

25 A That's all. That's all he told me to.

1
2 Q Let me show you this Government's Exhibit 15
3 and ask you if your signature appears on that card.

4 A Yes, it does.

5 Q And on that card you printed it and you also
6 signed it?

7 A No, I wrote that out in both places, here.

8 Q Excuse me?

9 A I wrote it out in script.

10 No.
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Q You printed your name and your address and you signed it at the bottom?

A No, this is script all the way across.

Q Is this printed or script?

A This part.

Q So the upper part is printed and the under part is your signature in script? Isn't that correct?

A I still say it is script.

Q The whole card is script?

A Except for four letters here.

Q "M-a-n-n," that is printed?

A Yes, that part right there.

Q Do you remember on this card, Plaintiff's Exhibit 15, do you have any independent recollection of checking into the motel on the day that you signed your name at the bottom of this card?

A No.

Q Would you be able to tell, aside from looking at the card, what date is on it?

A By looking at the card, I believe that is from the Ramada Inn.

Q And if you don't look at the card would you then be able to remember the date?

A No.

MR. MARTIN: I object to them, if your Honor please.

THE COURT: Overruled.

MR. KENNEY: We offer these in evidence, your Honor.

THE COURT: Mr. Direnzo?

MR. DIRENZO: I thought they were objected to by Mr. Martin.

THE COURT: You looked at them first and passed them on. I thought you had no objection?

MR. DIRENZO: I passed them on to Mr. Martin.

THE COURT: Overruled.

(Government's Exhibits 15, 16 and 17 for identification received in evidence.)

BY MR. KENNEY:

Q Now, Mr. Mann, I show you Government's Exhibit 15 and ask you if you can tell us where you signed that, where you were when you signed it?

A The Ramada Inn.

Q What was the date?

A I don't know the date offhand, but it was that Thursday.

THE COURT: Is there a date on the card, Mr. Mann?

THE WITNESS: Yes, on the back, the 22nd. It is a stamp.

Q Is that March 22?

A Yes.

Q Now I show you Government's Exhibits 16 and 17 for identification. Can you tell us where you signed those two slips?

A They are filled in on the form here.

Q Can you tell us where you were?

A The Met.

Q Were both of them signed at the Met?

A Pardon?

Q Were both of them signed at the Met?

A Yes.

Q Is there a date on the first one?

A Yes, there is.

Q What is the exhibit number on that one?

A 16.

Q What is the date on that?

A March 26.

THE COURT: Wait. I thought the Ramada Inn was 16.

MR. KENNEY: Ramada Inn is the one he identified as Government's Exhibit 15, your Honor.

Q Would you look at Government's Exhibit 17 and tell us whether there is a date on that?

A March 28.

THE COURT: What is the date on Exhibit 16, Mr. Mann?

THE WITNESS: March 26.

Q Mr. Mann, I show you Exhibit 25 for identification. Can you identify that card?

A No, not really.

Q Do you recognize the handwriting on it?

A No.

Q Have you ever seen it before?

A Yes, I have seen it before.

Q Before you were arrested did you see it?

A No.

Q Mr. Mann, you recall that I asked you where you got the gun on the 5th of April and you testified you got it from Chester Crawford?

A Yes.

Q I asked you if Chester Crawford had told you where he got it, and there was an objection which was overruled, and I didn't hear your answer.

THE COURT: He said "Mike." It is in the record.

MR. KENNEY: Thank you.

We have no further questions of this witness.

THE COURT: We will adjourn now for lunch and return promptly at 2 o'clock.

(Jury and witness excused.)

MR. MARTIN: May I just approach the bench for a moment?

THE COURT: Yes.

MR. MARTIN: Your Honor, we were served this morning with an amended bill of particulars dated December 17, 1973, at least, I was, and in it is a notification by the government that they ascertained there were two other co-conspirators, a party by the name of Robert Rimmer and a Michael Marciano. I submit to the Court this is very late in the game to come up with new people.

THE COURT: They are under a direction from the Court on defendants' counsel's motion to keep counsel advised as soon as they find any new names.

MR. MARTIN: I think it is late and I think it is putting us at a disadvantage with the government's end of the case.

THE COURT: When did you find out these names?

MR. KENNEY: We received information on Friday night which we checked out, which we felt was sufficient

to name these people as co-conspirators. Prior to this time we didn't have enough information to make such a statement.

MR. DIRENZO: I take it they are not going to be called as witnesses? I have a very good reason for asking.

THE COURT: Mr. Kenney?

MR. KENNEY: I don't believe I have to answer that question.

THE COURT: I am asking it.

MR. KENNEY: Well, we are undecided. We don't know at this time whether we are going to call them as witnesses or not.

MR. DIRENZO: I think I represented each of these men on a prior occasion. That is why I am alerting the Court. There might be a question of lawyer-client privilege, as well, and not having been alerted to it prior to today.

THE COURT: I will worry about that when the time comes.

MR. DIRENZO: I feel I am dutybound to apprise the Court.

MR. MARTIN: Just one other point. During the recess may we ask the court stenographer to read back

whether or not he, in fact, did use the word "Mike."

It is a rather important point.

THE COURT: Do you think I am misrepresenting, the same as when I said "pizza parlor" in New Jersey was mentioned and you disagreed with me?

MR. MARTIN: We would like it clarified.

THE COURT: Yes, it will be read.

(Luncheon recess taken.)

A F T E R N O O N S E S S I O N
2.00 P.M.

(Jury in box.)

MR. KENNEY: The government has four business record witnesses who are here at this time. I don't think they will take more than five minutes or more apiece. With the Court's permission may Mr. Carey question the Telephone Company witness?

THE COURT: Yes.

J A M E S H A N D, called as a witness on behalf of the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CAREY:

Q Mr. Hand, by whom are you employed?

A New York Telephone Company.

Q How long have you been in their employ?

A 25 years.

Q What is your capacity with the New York Telephone Company?

A Special agent.

Q Mr. Hand, I give you Government's Exhibit for identification Nos. 26 and 27. Can you identify those?

A Yes.

Q What are they?

A It is the telephone and commercial record card and toll statements.

THE COURT: Both of them are? You have a document in your right hand, Mr. Hand.

THE WITNESS: Yes, your Honor.

THE COURT: What number is on it?

THE WITNESS: 26.

THE COURT: You say that is a record card and toll call?

THE WITNESS: This is a commercial record card, your Honor.

THE COURT: Commercial record card?

THE WITNESS: Yes.

THE COURT: And what is 27?

THE WITNESS: That is a toll statement.

Q Are you the custodian of those records?

A Yes.

Q Are those records kept in the ordinary course of business of the New York Telephone Company?

A Yes.

Q Is it the ordinary course of business of the New York Telephone Company to keep those records?

A Yes.

Q With respect to Government's Exhibit 26, could you tell the Court what that card indicates?

THE COURT: When you say "record card," I assume it is a record card for a subscriber?

THE WITNESS: Yes, your Honor.

THE COURT: Just give us the name of the subscriber.

THE WITNESS: The subscriber's name is Maria Vasquez.

MR. MARTIN: I am going to object.

THE COURT: On what ground?

MR. MARTIN: As against the defendant McCloskey it does not apply to him on the ground it is not directly connected with him or the defendants or co-conspirators in the case. It is highly prejudicial.

THE COURT: I think the testimony of Mr. Chester Crawford clearly indicates that Miss Vasquez was involved to some extent in this case. Objection overruled.

Put your question.

Q What is the telephone number indicated for Maria Vasquez?

A Area Code 212 2766220.

Q What does Government's Exhibit No. 27 indicate?

A It is a telephone toll, telephone calls that

were made from that telephone number.

THE COURT: During what period?

Q What months are those bills for?

A Starting March 8, 1973, to May 12, 1973.

THE COURT: Now, show it to the defendants.

MR. DIRENZO: Mr. Martin says he has already looked at these; he already knows something about them, and I will rest on the position Mr. Martin takes.

MR. MARTIN: I am objecting to their admissibility.

THE COURT: Overruled.

MR. CAREY: The government offers Exhibits 26 and 27 in evidence.

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(Government's Exhibits 26 and 27 for identification received in evidence.)

MR. CAREY: No further questions of this witness.

THE COURT: You may step down.

MR. MARTIN: Your Honor --

THE COURT: I am sorry.

Mr. Direnzo, do you have any questions?

MR. DIRENZO: I will leave it to Mr. Martin, because I am not as familiar with them.

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CROSS EXAMINATION

BY MR. MARTIN:

Q As I understand this Exhibit 26, this is just a record card of the account? Is that correct?

A Yes.

Q May I show it to you, please. Can you tell me if that card or that same number was ever in the name of Chester Crawford?

A I wouldn't know.

Q Did you bring the financial records with you concerning the payments of any bills that were sent to that account?

A No.

Q Did the government ask you to bring those financial records?

A I am not sure what you mean by financial records.

Q You received a subpoena to bring those records to the court?

A To bring records to court.

Q The government had given you a paper telling you what records they wanted?

A Yes.

Q Did you read that paper over?

A Yes.

Q In that paper did the government ask you to bring in the records for the payment of that bill for the same period of time covered by Government's Exhibit 27?

A No.

Q Does the Telephone Company have those financial records as to the payment for these bills?

A I wouldn't know.

Q Are you in charge of the records for the Telephone Company?

A Yes.

Q In the regular course of your keeping those records does the Telephone Company keep records of the payment of these bills?

A Yes.

Q So that they would have records of when these bills were paid? Would that be true?

A Just one thing, counsellor, you are referring to records --

Q I am sorry. I am referring to these exhibits on 27, the records you brought, were bills and statements issued in April or May of 1973?

A Right.

Q And they are records of toll calls that came

from this Maria Vasquez's number? Is that correct?

A Yes.

Q And the record for when that was paid would also be with the Telephone Company? Is that correct? If it was paid?

A Yes.

Q Do you know if, in fact, your records would indicate if Chester Crawford made payment for those invoices?

A I wouldn't know.

Q Have you checked your records to find that out?

A No.

Q Were you aware of the telephone call on Government's Exhibit 27 that was made from that number on March 23 to Washington, D.C.?

THE COURT: What do you mean, was he aware?

MR. MARTIN: He is introducing these --

THE COURT: He is not introducing anything. He just brought some records into court.

Q Will you look at those records?

A Yes, sir.

Q Can you tell me whether the first five calls were made to you?

A The first five calls were made to -- the first

two were made to Brentwood, the third to Mayport, and the next two to Brentwood.

Q Will you check down to March 23, 1973, to ascertain if there was any outgoing call listed on that exhibit?

A Yes.

Q What does that call reflect?

A There is one call to Brentwood, New York, one to Washington, D.C., one to Union City, New Jersey.

Q The one to Washington, D.C., do you have any way or do your records reflect the time that that call was made?

A Yes.

Q Can you tell us what time that was?

A It is in Military time, 2053.

Q 2053? That would be 8 o'clock?

THE COURT: 9 o'clock -- 8.53.

Q 8.53 on the 25th?

A Yes.

Q Now, you have no way of knowing who made that call?

A No.

Q You have no way of knowing who made that call from that number?

A No.

Q Just the fact that there was a call made from that number to other numbers?

A Yes.

Q And as far as you know, Maria Vasquez could have made those calls?

A Yes.

Q Chester Crawford could have made those calls?

A Yes.

Q Or anybody else could have made those calls? Isn't that correct?

A Yes.

MR. MARTIN: Thank you.

MR. DIRENZO: May I ask one question, your Honor?

THE COURT: I thought you were resting on what Mr. Martin asked?

MR. DIRENZO: I have to rely on him, but as a result of the questions he asked --

THE COURT: Go ahead.

CROSS EXAMINATION

BY MR. DIRENZO:

Q You are a special agent attached to the Telephone Company?

A Yes.

Q In your duties as a special agent in categorizing your subscribers, is there any record made of subscribers

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who are receiving welfare assistance?

A No, not that I know of.

MR. DIRENZO: Thank you, sir.

THE COURT: Mr. Hafetz?

MR. HAFETZ: No questions.

THE COURT: Mr. Hopper?

MR. HOPPER: No questions.

MR. CAREY: No further questions, your Honor.

THE COURT: You may step down.

(Witness excused.)

MR. CAREY: Mr. Snowden.

G I L B E R T S N O W D E N, called as a
witness by the Government, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. CAREY:

Q Mr. Snowden, by whom are you employed?

A New Jersey Bell Telephone Company.

Q How long have you been employed by New Jersey
Bell Telephone Company?

A Five years.

Q In what capacity are you employed?

A As a representative.

Q I show you Government's Exhibits for identification Nos. 28, 29-A, 29-B and 29-C.

Did you examine those records prior to taking
the witness stand this afternoon?

A Yes, I did.

Q Can you identify those records? Can you
identify them by number?

A Yes. 28 is a copy of the customer's record,
M.P. Wall, 1511 43rd Street, North Bergen, New Jersey.

Q What is the telephone number on that?

A Telephone number is 863-8847.

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Q And the area code?

A 201.

Exhibit 29-A is a copy of the customer's calls from the month of March. And 29-B is a copy of the customer's records from the month of April. And 29-C is a copy of the records from the month of May.

Q Are you the custodian of those records?

A Yes.

Q Are those records kept in the ordinary course of business of the New Jersey Bell Telephone Company?

A Yes, they are.

Q And is it the ordinary course of business of the New Jersey Bell Telephone Company to keep those records?

A Yes.

Q With respect to Exhibits Nos. 29-A, B and C, what period of time do they reflect calls being made?

A From the month of March through May.

Q And 29-B?

A Well, I thought you meant all of them together. That's what they include.

Q 29-A, B and C?

A 29-A is for the month of March, the calls made during the month of March.

Q And any other month?

A And 29-B is for the calls made during the month of May. And 29-C is for the month of -- 29-C, rather, is May; 29-B is April; and 29-A is March.

MR. DIRENZO: May I have Mr. Martin look at those first, your Honor?

(Pause.)

MR. MARTIN: I am going to object to their admissibility.

THE COURT: On what ground?

MR. MARTIN: They're hearsay, for one thing. For another, they're totally irrelevant. For another, they're prejudicial to my defendant --

THE COURT: On the first ground, it is, under the hearsay rule, a record kept in the regular course of business. That objection is overruled.

What is your next one?

MR. MARTIN: The next one, your Honor, is that it pertains to an individual by the name of Wall. It has nothing to do -- his name, he wasn't brought into the case, he is not alleged as a co-conspirator.

THE COURT: Wall's Tavern.

MR. MARTIN: No. It says M. F. Wall.

THE COURT: Does it tie up with the address?

MR. MARTIN: I think it's prejudicial.

And there is another portion of it, your Honor -- there are portions covering April, the months of April and May. I think your Honor already has made some ruling on the time sequence of this.

THE COURT: There were some discussions about telephone calls immediately thereafter.

Will there be a tie-up of the address?

MR. CAREY: Yes, your Honor. These will be tied up with the address.

THE COURT: Objection overruled.

MR. DIRENZO: May I just add to the objection, your Honor, I object to any telephone calls made subsequent to April 5, 1973.

THE COURT: Well, we had a sort of a flexible rule in that area, Mr. Drenzo, for at least a couple of days thereafter. We will worry about that when we see the specifics.

Mr. Hafetz?

MR. HAFETZ: No objection.

THE COURT: Mr. Hopper?

MR. HOPPER: No.

THE COURT: Any cross-examination, Mr. Drenzo?

MR. DIRENZO: I have none, your Honor.

THE COURT: Mr. Martin?

MR. MARTIN: Yes, your Honor.

THE COURT: They're admitted in evidence.

(Government's Exhibits Nos. 28, 29-A, 29-B and 29-C for identification received in evidence.)

CROSS-EXAMINATION

BY MR. MARTIN:

Q Can you describe, sir, what Government's Exhibit 28 is, again, please?

A This is a copy of the customer's record for service, for self-service.

Q Can you tell us who the customer is?

A Yes. M. F. Wall.

Q Is there any other name or any other company associated with that?

A No, there isn't.

Q Can you tell us the address that that is listed for?

A 1511 43rd Street, North Bergen, New Jersey.

Q Would you be able to ascertain from your records what type of building or establishment that is?

A Well, it's a resident account.

Q It's a resident account. And that is for an M.F. Wall?

2 A Yes, sir.

3 Q Can you identify -- oh, excuse me.

4 Does the name, Vincent McCloskey, appear on
5 there at all?

6 A Pardon me?

7 Q Does the name, Vincent McCloskey, appear on that
8 document at all?

9 A No, sir.

10 Q Thank you.

11 Will you take a look at Government's Exhibits
12 29-A, 29-C and 29-B, and tell us what they are, please?

13 A These are copies of toll statement for the
14 customer's record 863-8847 -- telephone number, rather.

15 Q Would that be records of calls made from Mr.
16 Wall's telephone outside?

17 A It would be a copy of records for calls
18 either made from the phone directly or made from another
19 phone billed to it, to that phone.

20 Q Can you explain that, about made from another
21 phone to it?

22 A Well, if you make a call outside your area
23 and you bill it to your home number, it would be reflected
24 in your toll statements.

25 Q In other words, if you charge it?

A Pardon me?

Q In other words, you call from outside and say, "Charge it to this number"?

A Yes, it would appear on here, but not necessarily the same as you made it as direct dialed from the number.

Q Who would be authorized to charge outside calls to that number, by your company?

A No one by our company, except the person that has the telephone installed for them.

Q That would be Mr. Wall?

A Right.

MR. MARTIN: Thank you.

May I just have a moment, your Honor?

THE COURT: Yes.

(Pause.)

MR. MARTIN: No further questions. Thank you.

MR. DIRENZO: I'm sorry, your Honor. Please.

THE COURT: All right.

CROSS-EXAMINATION

BY MR. DIRENZO:

Q With reference to the dates and notations contained on Exhibits 28, 29-A, 29-B and C, I think you told us that the telephone was located in North Bergen,

1 is that correct, sir?

2 A Yes.

3 Q Would you tell us approximately how far is the
4 location of the telephone from the Wall Street area,
5 or the downtown area in New York, Manhattan, in New York
6 City?

7 A How far? In miles, you mean?

8 Q Yes.

9 MR. CAREY: Objection, your Honor.

10 THE COURT: Sustained.

11 Q If you know, examining the dates that appear
12 on these exhibits -- I'm only giving you that as a preamble --
13 do you recall that there was a PATH strike from Jersey to
14 New York on the tubes?

15 MR. CAREY: Objection, your Honor.

16 THE COURT: I don't know where you're leading,
17 but I will let you take a couple of more cracks at it.

18 MR. DIRENZO: That's all. It won't be more
19 than that, your Honor.

20 Q Was there a PATH strike going on during this
21 period of time?

22 THE COURT: March or April 1973?

23 MR. DIRENZO: That is correct.

24 THE COURT: Do you know?

THE WITNESS: I don't know. I don't use it.

THE COURT: He doesn't know.

Q In any event, during that PATH strike, traffic was horrendous at that time going into New York?

MR. CAREY: Objection.

THE COURT: Sustained.

He doesn't know anything about PATH strikes.

MR. DIRENZO: I have no further questions.

THE COURT: Now, if you can, Mr. Snowden, will you tell me, from Exhibits 29-A, 29-B and 29-C, whether the calls were made from that number or charged from the outside to that number?

THE WITNESS: Made from where, charged to where?

THE COURT: Well, you have charges against the number 863-8847. Now, you said, I thought, in your testimony, that those charges could either arise by somebody making the call on that telephone or making the call from another telephone and charging it to 863-8847; correct?

THE WITNESS: Yes.

THE COURT: Can you tell from those records whether any calls were made on another phone and charged to that number?

THE WITNESS: Okay, I will have to look at them

all.

THE COURT: Would you, please.

THE WITNESS: On Exhibit 29-B there was one call made from another area to a Bronx number, and on 29-C there was two calls made from a New York and Bronx number again, billed to that number.

These were the only three calls, though.

THE COURT: You say on 29-B there was one call made and charged to that number, and the call was directed to the Bronx?

THE WITNESS: No, there was a call from the Bronx.

THE COURT: From the Bronx?

THE WITNESS: Billed to this number, 863-8847 on 29-B, Exhibit 29-B.

THE COURT: And 29-C?

THE WITNESS: 29-C there were two calls --

MR. CAREY: Your Honor, may we have the witness check these particular calls with a pen while he is identifying them?

THE COURT: Does anybody need it? Do you want it done, Mr. DiRenzo?

MR. DIRENZO: Not particularly.

MR. CAREY: Your Honor, then we'd like the record

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to reflect which particular calls, the days and the number.

THE COURT: What date was the call on 29-B?

THE WITNESS: 29-B was 5/2 of '73.

And on Exhibit 29-C it was 5 --

THE COURT: I think we can omit 29-C. That is a May call. It's a May bill.

All right. Thank you.

MR. DIRENZO: The other it's May 2nd.

THE COURT: All right.

Anybody want to ask any further questions of the witness?

You are excused. Thank you, Mr. Snowden.

(Witness excused.)

MR. KENNY: Mr. Cafasso.

P E T E R C A F A S S O, called as a
witness by the Government, being first duly sworn,
testified as follows:

THE COURT: You may proceed.

DIRECT EXAMINATION

BY MR. KENNEY:

Q Mr. Cafasso, what is your occupation?

A Detective, North Bergen police.

Q How long have you been so employed?

A Twenty-eight years.

Q I show you what has been marked Government's Exhibit 30 for identification and ask you if you can identify it.

A Yes, I do.

Q Will you tell us, without explaining the contents, will you tell us what it is?

MR. DIRENZO: May we see what he's looking at before?

THE COURT: He can identify it without giving the contents.

MR. DIRENZO: I recognize that, your Honor.

THE COURT: That's all he's being asked to do at this point.

A This is a card we make, that is, the police department makes out when --

MR. DIRENZO: Objected to.

THE COURT: What?

THE WITNESS: When a car is stolen, an auto.

THE COURT: All right.

He has now identified it, which he's entitled to do.

Now do you want to look at it?

MR. DIRENZO: I sure do.

THE COURT: All right.

(Pause.)

MR. DIRENZO: I have examined the exhibit,
your Honor.

THE COURT: Do you have any objection?

MR. DIRENZO: Definitely.

THE COURT: Come up to the bench.

MR. DIRENZO: I move that the answer previously
given by this witness and the identification that he did
make concerning the card itself be stricken and the
jury admonished.

THE COURT: I can't do that until I see the card.

The motion to strike the identification given
by the witness is denied.

(At the bench.)

THE COURT: What is your objection?

MR. DIRENZO: Now the objection is, if your
Honor please, I take it at this point he's now offering
it in evidence --

THE COURT: I think he's going to offer it in
evidence.

Aren't you?

MR. KENNEY: Yes.

MR. DIRENZO: Now, I object, first, on the

ground that it's hearsay. It's hearsay -- yes, I know, your Honor, and I disagree --

THE COURT: All right, go ahead.

MR. DIRENZO: -- and I know why your Honor disagrees with me.

Most respectfully, I disagree with your Honor.

THE COURT: All right. What is your second ground?

MR. DIRENZO: Second ground, if your Honor please, this instrument refers to a vehicle, a van, that was apparently reported stolen. There is no proof -- and I take it: it's being offered to show that a van was allegedly used in the hijacking, the alleged hijacking or the robbery involved in this case. There is no proof that it's that van. Hundreds or thousands of vans could have been stolen during this period of time. That wouldn't make -- assuming that it was receivable in evidence, and your Honor has ruled that, what proof is there that this particular van --

THE COURT: All I said so far is that your motion to strike the testimony as to the identification is denied. This is exactly what the witness said it was, a card which they keep to report stolen cars. There is nothing wrong with that.

MR. DIRENZO: Right; your Honor says --

THE COURT: Now you say you want to exclude it because it's hearsay.

MR. DIRENZO: Right.

THE COURT: I overrule that.

Now you say you want to exclude it because there is no way by which a reasonable person could tie up the information contained on this card with the testimony in this case to date without being extremely prejudicial to the defendants.

I sustain that objection.

MR. KENNEY: May we make an offer of proof at this time?

THE COURT: Yes. Unless you have something to show a more definite tie-in --

MR. KENNEY: We are going to call two separate witnesses to show that Mr. McCloskey and Mr. Turner were present when Mr. Carroll got into that van and drove it away from the loading platform of the Schwartz Yarn Company and the Metropolitan Adhesive Company.

THE COURT: Want to think about that a little bit more?

MR. DIRENZO: No. His testimony is that they got into a van, this particular van?

THE COURT: That is what he says.

MR. DIRENZO: Can I ask what I think is a proper question? How does he identify it as being the particular van, this van? I understand it's a van. Nobody has testified --

THE COURT: It's a blue van.

MR. DIRENZO: Some said blue; some said gray.

THE COURT: That's all right.

MR. DIRENZO: Or green.

THE COURT: That's for the jury. But if you put two of these defendants -- right?

MR. KENNEY: That is correct, your Honor.

THE COURT: -- at the scene, one of whom drives the van away --

MR. DIRENZO: Not that he drives away; he rides.

MR. KENNEY: Drives.

THE COURT: Drives.

MR. DIRENZO: Did I hear testimony "drive"?

MR. KENNEY: This is an offer of proof.

MR. DIRENZO: Who is the alleged driver, if I may know? I thought it was supposed to be McCloskey, according to the testimony.

THE COURT: No, no. You are not listening.

The Government says that they're going to tie up this car on Government's Exhibit 30 for identification with one of the defendants who was seen getting into it and driving it away sometime before April 5th. It wasn't his car. Subsequently he reported it stolen.

MR. DIRENZO: He's going to show this particular van -- is that what I understand?

MR. KENNEY: That is correct.

THE COURT: That is what he's saying.

MR. MARTIN: I have one other objection.

MR. HOPPER: May I make a further objection, and that is that even granted that Mr. Kenney proves what he says, this card should not be received as evidence that it was stolen. If somebody has a car stolen, I think the best evidence is that that person comes in and says, "On a certain day, a van was stolen." This is not probative.

THE COURT: That is overruled.

MR. MARTIN: I make another one.

THE COURT: Yes?

MR. MARTIN: I am going to object on the grounds it relates to another separate, independent crime and by admitting it into evidence it's highly prejudicial to the defendants on trial.

THE COURT: This is a separate crime, but it's in the course of this conspiracy, the same as Secaucus came in.

MR. MARTIN: If your Honor please --

THE COURT: Objection overruled.

I will take it subject to connection.

MR. DIRENZO: You will take it subject to connection?

THE COURT: Obviously.

MR. DIRENZO: Of course, we are now waiving any of all the other objections we made with reference to Secaucus or anything else?

THE COURT: Of course.

(In open court.)

BY MR. KENNEY:

Q Mr. Cafasso, are you the custodian of that document?

A Yes, I am.

Q Is that document kept in the regular course of the business of the North Bergen Police Department?

A Yes.

Q And is it the business of the North Bergen Police Department to keep such a document?

A Yes.

MR. KENNEY: Your Honor, we offer Government's Exhibit 30.

THE COURT: The objections have been made and overruled at the bench.

MR. DIRENZO: In addition to all of the grounds urged at the bench, if your Honor please, I also urge that for this purpose, the purpose for which it's being offered at this time, that it's not to be received under the theory of either the shop book rule or records kept in the regular course of business.

THE COURT: That motion is denied. I will take it subject to connection.

(Government's Exhibit No. 30 for identification received in evidence.)

THE COURT: Subject to connection.

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Q Now, sir, looking at the face of that document, would you tell us what it is?

A It is a report of a stolen vehicle that was reported to us.

Q What kind of a vehicle?

A A step-van.

Q Who reported it to you?

A Richard Schwartz.

THE COURT: Who is Richard Schwartz?

THE WITNESS: He is the -- I don't know if he is the owner or what of the Harry Schwartz Yarn Company.

Q Can you tell from Exhibit 30 where the Harold Schwartz Company is located?

A 2815 Paterson Plank Road, North Bergen.

Q When was the van stolen, if it indicates?

A The time it was reported, at 9.20 a.m. on April 2, 1973.

Q Is there any further description of that van on Exhibit 30?

A Such as the name on the vehicle?

Q Yes. What is the name on the vehicle?

A Harry Schwartz Yarn Company.

Q Does it indicate that there was such a name on the vehicle?

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2 A I have other records here. I will check.

3 Q Will you just tell us if Exhibit 30 indicates
4 whether there was any name on the vehicle?

5 A No, outside the make of the vehicle.

6 Q Does it indicate the color?

7 A Yes, blue, '67, 1967, color blue.

8 Q Now, across the face of that exhibit in rec is
9 written the word "Cancelled."

10 A Correct.

11 Q Can you tell us what that means?

12 A We were notified that the vehicle was found and
13 we had to send out a teletype to cancel the alarm.

14 Q Who notified you?

15 A New York City Police, 9th Precinct.

16 Q When did they notify you?

17 A On April 10, 1973.

18 Q Does it indicate where it was found?

19 A No, just told us they had found it and we could
20 cancel the alarm on that vehicle.

21 MR. KENNEY: No further questions.

22 MR. DIRENZO: May I see the exhibit, please.

23 CROSS EXAMINATION

24 BY MR. DIRENZO:

25 Q Detective, all of the information that is con-

tained on Government's Exhibit 30 is information that you personally recorded on this document?

A No, I did not.

Q In other words, it came from someone else?

A True.

Q Did you say in answer to the question put to you by the Assistant United States Attorney that the name Harry Schwartz Yarn Company was inscribed on some panel or body of that truck?

A I am not sure of that.

Q That is not your testimony? Is that correct?

A I am not sure.

Q But there is nothing to indicate merely from reading this Exhibit 30 which would indicate that the name was actually inscribed on the truck? Is that right, sir?

A Right.

Q You testified here today, sir, as to the contents contained on the card that is marked Plaintiff's Exhibit 30? Is that correct, sir? Just the card?

A Yes, sir.

MR. DIRENZO: If your Honor please, I now respectfully request that insofar as the exhibit itself is concerned, that the papers attached to the card be separated from the exhibit, since he is only testifying

about the card.

MR. KENNEY: May I see it. May I ask the witness a question.

VOIR DIRE EXAMINATION

BY MR. KENNEY:

Q Mr. Cafasso, will you tell us how those writings are made on the pieces of paper on the back?

A Yes, sir.

MR. DIRENZO: May I object?

THE COURT: He is not telling us what the content is; he is asking how the writing is put on there.

A One is a teletype that is sent in by the State Police all over the State of a stolen vehicle.

Q What is the second one?

A The second one is a cancellation of the same vehicle.

MR. KENNEY: We have no objection to having them removed from this exhibit, your Honor.

THE COURT: May I see that, please.

This address you gave us at 2815 Paternson Plank Road --

THE WITNESS: Yes, sir.

THE COURT: Is that the area from which it is claimed the vehicle was stolen?

THE WITNESS: Yes, sir.

THE COURT: I will give these two back to you, Detective.

MR. DIRENZO: Jersey detectives find things fast.

THE COURT: What?

MR. DIRENZO: I say Jersey detectives find slips of paper very fast.

THE COURT: Are you finished with your cross-examination?

MR. DIRENZO: With this gentleman, yes.

THE COURT: Mr. Martin.

CROSS EXAMINATION

BY MR. MARTIN:

Q What was your name again, Detective?

A Peter Cafasso.

Q Detective Cafasso, this vehicle was reported stolen on April 2, 1973? Is that correct?

A Yes, sir.

Q That is the first time it was reported stolen to your knowledge?

A Yes, sir.

Q This would have been a Monday?

A I don't know the date.

Q Did you personally interview the man who reported the car stolen?

A No.

Q Is this the only record you have?

A No.

Q Of that vehicle?

A No.

Q Do you have other records?

A Yes, sir.

Q Could I see them, please?

A I have an incident report and a complaint sheet.

Sir, can I have that other sheet? Here is the other report, sir, the complaint sheet.

Q And the paper that is in your hand?

A No, they are duplicates.

Q Can I see it, please?

A This is the subpoena.

MR. MARTIN: May I have just a second to read this, your Honor.

Q Detective, the complaint was actually received by a Lieutenant Savage?

A I believe it was another fellow. No, he just reviews the papers before they are sent into the record room.

Q Can I show you this and ask you to read the third line?

A Sure.

Q To see if that refreshes your recollection?
Does that refresh your recollection?

A Yes, sir.

Q Who was it received by? Lieutenant--

A Savage.

Q Was Detective Boyd assigned to investigate the case?

A No, Lieutenant Savage.

Q Can I see that paper? I call your attention to the line below Lieutenant Savage.

A Yes, sir.

Q I ask you if there was some other officer assigned to the case?

A Well, according to our reports, there are two officers assigned.

Q Detective, was there or was there not a Sergeant Doll assigned to the case?

A Yes.

Q Did Sergeant to your knowledge make an investigation of the case?

A Yes, sir -- not investigation; he took the

report.

Q I thought the Lieutenant took the report?

A No, we have two. We have one card, and these are complaint sheets which are reviewed by the Lieutenant. He signs them also.

Q Did anybody from your precinct to your knowledge make any investigation of the robbery or the alleged larceny?

A Not that I know of.

Q This was a blue vehicle?

A Yes, sir.

Q It was not a green vehicle?

A No, sir.

Q And it was not a gray vehicle?

A No, sir.

Q It was blue? Was it a vivid blue, do you know?

A That I don't know.

Q Did it have writing on the vehicle?

A I don't know.

Q And this was reported as having been taken some time between 5 and 7.00 p.m.? Is that accurate?

A That is the time -- no, the time taken of the report was 5.20 a.m.

Q 5.20 a.m.?

A That is when it was reported to us.

Q Actually, it was reported at 9.20 on April 2nd?

A You are right, 9.20. I thought it was 5;
9.20 a.m. reported to us.

Q That was on April 2nd?

A Yes.

Q I am trying to fix a time when the complainant
said, in fact, it was taken.

A Right.

Q When was that?

A 9.20 a.m. it was reported to us.

THE COURT: Did the complainant tell you when the
van was found missing?

THE WITNESS: No, sir.

Q Let me show you this document and ask you if that
refreshes your recollection as to when, in fact, the com-
plainant said the vehicle was allegedly stolen.

A 9.20 a.m.

Q I call your attention --

A -- reported to us 9.20 a.m.

THE COURT: When he called up at 9.20 a.m. and
said, "We are missing a blue van," did he also tell you that
it was taken at 8 o'clock, or, "We first discovered it missing
at 6 o'clock?"

THE WITNESS: I couldn't tell you that.

Q Isn't it a fact that it was reported that it was taken, the time of the occurrence was between 5 and 7 on March 30, 1973? I show you this document and call your attention to these lines to see if that will refresh your recollection.

A Can I also see that card a minute, sir, because the handwriting is better. True.

Q Before you testified today did you have occasion to speak to the United States Attorney concerning your records and your testimony?

A Concerning these records? Yes.

Q Did he review with you the time and the information that you were going to testify to?

A No, he did not.

Q Did you tell him anything about what you were going to testify to?

A Just what I had on the paper here.

Q And you showed him those papers?

A Yes, sir.

Q On any place in your records from anybody's investigation in your department, did you ever ascertain the circumstances under which that vehicle was taken?

A No, sir.

Q Your department was charged with conducting an

investigation into this disappearance, was it not?

A Yes.

MR. MARTIN: Thank you.

THE COURT: Mr. Hafetz?

MR. HAFETZ: No questions.

THE COURT: Mr. Hopper?

MR. HOPPER: No questions.

THE COURT: Any redirect?

MR. KENNEY: No further questions.

(Witness excused.)

THE COURT: Next witness.

MR. KENNEY: I understand Mr. Holvey from the Washington or the Potomac Telephone Company is here, and we ask the Court to call him as our last business records witness.

THE COURT: All right.

MR. KENNEY: I have a Mrs. Dietrich out there as well, it just occurred to me. I am sorry your Honor.

JULIUS HERMAN HELVEY, called as
a witness on behalf of the government, being
first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CAREY:

Q Mr. Helvey, by whom are you employed?

A Chesapeake & Potomac Telephone Company of
Washington, D.C.

Q How long have you been employed by that telephone
company?

A 21 years.

Q What is your position with that company?

A I am a supervisor in the comptroller's department.

Q Mr. Helvey, I show you Government's Exhibit for
identification No. 31. Can you identify that?

A Yes. These are official telephone company
records which we bill our customers.

Q Did you have a chance to examine those records
prior to entering the witness stand this afternoon?

A I did.

Q Are the custodian of those records?

A I am one of several.

Q Are those records kept in the regular course of

business of the Chesapeake & Potomac Telephone Company?

A They are.

Q Is it the regular course of business of the Chesapeake & Potomac Telephone Company to keep those records?

A It is.

Q Would you please tell the Court what the name is of the subscriber indicated on those telephone records?

A Mrs. -- the L -- Myers -- M-y-e-r-s.

Q What is the telephone number indicated?

A The telephone number is 202 829 7657.

Q Any address?

A 135 Kennedy Street, Northwest, Apartment 207, Washington, D.C.

Q Are those records kept in the regular course of business?

A Yes, sir, they are.

Q Of the Chesapeake & Potomac Telephone Company?

A Yes, sir.

MR. CAREY: Your Honor, the government offers 31 in evidence.

MR. DIRENZO: I renew my objection previously urged concerning any calls after April 5.

(Government's Exhibit 31 for identification received in evidence.)

THE COURT: Are you through with the witness?

MR. CAREY: The government has no more questions.

THE COURT: Mr. Drenzo, do you have any questions?

MR. DRENZO: No questions.

THE COURT: Mr. Martin?

CROSS EXAMINATION

BY MR. MARTIN:

Q Can you tell us the name of the party who this telephone record pertains to?

A If you will give me the records.

Q This is Government's Exhibit 31.

A Mr. L. Myers -- M-y-e-r-s.

Q Do you know who she is?

A I don't have the slightest idea.

Q You don't know from that record whether she was married to Terry Myers or not?

A I would not.

Q You would not know from looking at that whether Terry Myers lived there or not?

A I wouldn't.

Q Or any of the calls listed on there, you wouldn't know who made those calls?

1 A I do not.

2 Q It could have been Mr. Myers; it could have
3 been anybody?

4 A That is true.

5 Q Now, on that exhibit there is a series of calls
6 or toll calls I presume. Are they calls that were made
7 from that number in Washington?

8 A They were made from this number to a New York
9 number.

10 Q From that number to New York?

11 A Yes, all of them to New York.

12 Q Are there any other calls that those records
13 indicate or that you can tell from those records that were
14 made from that number to New York, or from New York to
15 that number?

16 A No, no other ones made from this number.

17 Q Is there any way of telling from those records
18 if any calls were made from New York to that number?

19 A Yes, there would be a reverse charge, and there
20 is no indication here that there is any from New York to
21 that number.

22 Q Those records would only be emanating from
23 Washington to the numbers that are listed?

24 A That is right.
25

1
2 MR. MARTIN: That is all.

3 THE COURT: Mr. Hafetz?

4 MR. HAFETZ: No questions.

5 THE COURT: Mr. Hopper?

6 MR. HOPPER: No questions.

7 THE COURT: You may step down. Thank you.

8 (Witness excused.)

9 MR. KENNEY: The next witness is Mrs. Joan
10 Dietrich.

3 11 J O A N D I E T R I C H, called as a witness on
12 behalf of the government, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. KENNEY:

16 Q Is it Miss or Mrs.?

17 A Miss Dietrich.

18 Q Miss Dietrich, can you tell us what your occupation
19 is?

20 A Yes, I have a franchise for a car rental agency
21 in Union City, New Jersey.

22 Q What is the name of that business?

23 A Econo-Car of North Hudson.

24 Q Will you tell us where it is located?

25 A 801 Sip Street in Union City.

1
2 Q How long have you been involved in this particular
3 business?

4 A For ten years.

5 Q I show you what has been marked Government's
6 Exhibit 32 for identification and ask you without telling
7 us what the contents of that is if you could identify it
8 for us?

9 A Yes, this was an automobile Chevrolet station-
10 wagon. Would you like the license number?

11 Q Just tell us what that document is.

12 A This is a rental agreement.

13 Q What is the card on top?

14 A The card on top is a qualification card that
15 the customer fills out.

16 Q And in your business is such a qualification card
17 filled out everytime somebody rents a car?

18 A No, the first time they rent a car from us and
19 it is kept on record.

20 MR. KENNEY: Like Mr. Cafasso, Miss Dietrich is
21 called out of order, and we solicit this testimony subject
22 to connection.

23 THE COURT: I will take it subject to con-
24 nection.

25 Q Now, Miss Dietrich, are you the custodian of

1 mp

Dietrich-direct

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2 that record?

3 A Yes, I am.

4 Q Is that record kept in the regular course of
5 your business?

6 A Yes, it is.

7 Q Is it the regular course of your business to
8 keep such records?

9 A Yes, it is.

10 MR. KENNEY: May I show this exhibit to defense
11 counsel?

12 THE COURT: Yes.
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remote, too, to the actual charges in the indictment.

THE COURT: Is this a car for which a report of stolen car was made up? I gather Turner is the fellow who is going to testify to all this.

MR. KENNEY: That's correct.

THE COURT: You fellows know that as well as I do; if I can get it, you certainly can.

MR. DIRENZO: This has to be, then, in connection with the Pennsylvania situation.

THE COURT: That is right.

MR. MARTIN: That's very remote, your Honor.

MR. DIRENZO: Of course, we've always had a continuing objection on Pennsylvania.

THE COURT: That's true.

I will let it in subject to connection.

MR. DIRENZO: All right, your Honor, subject to the same motions, with the same rulings.

THE COURT: Yes.

(In open court.)

MR. KENNEY: We offer 32 for identification.

(Government's Exhibit No. 32 for identification received in evidence.)

THE COURT: Subject to connection.

Let me explain to the jury what is meant by

"subject to connection." You recall when Detective Cafasso testified, we admitted his police card, which is a report of a stolen car, subject to connection, and we're admitting this subject to connection. That means that by itself it's not competent proof in this case. However, if the Government, as they indicate, will produce proof to tie up this document with the facts of this case, then, of course, it will come in. If the Government fails to do that, why then the documents are stricken from evidence and the evidence you hear in conjunction with them is stricken, and you are not to consider it.

But we will again indicate to you a ruling after the Government has completed its entire case.

You may proceed.

BY MR. KENNEY:

Q Now, Miss Dietrich, would you look at Government's Exhibit 31 -- I'm sorry, 32, and would you tell us who that rental agreement is with?

A The car was rented to Eyleen Holder.

Q And when was the car rented to Eyleen Holder?

A On March 21, 1973.

Q What kind of car was rented to Eyleen Holder?

A A 1973 Chevrolet station wagon.

Q What color was it?

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A Blue.

Q Does that document indicate whether the car was returned?

A Yes, it does.

Q Does the document indicate whether there was a date set at the time the rental agreement was signed for the car to be returned?

A Yes, it does.

Q What is that date?

A March 23, 1973.

Q Does the exhibit indicate when the car was, in fact, returned?

A Yes, it does.

Q When was it returned?

A March 26, 1973.

Q Can you tell us where this car was physically after it was returned on the 26th?

A The car was parked on my property in Union City, New Jersey, when it was returned on the 26th and until it was reported missing.

Q Now, when did you first notice the car was missing?

A I noticed on March 30th, the morning of March 30th, that the car was no longer in the driveway.

Q And have you reviewed the records of your company with regard to that car for the period of time between March 26th and March 30th?

A Yes, I have.

Q And was that car rented during that period of time?

A The car was not rented during that period of time.

Q Now, after you found the car missing, what did you do?

A I notified the Union City police department.

Q And did you notify anyone else?

A I'm sorry. Could you repeat that question?

THE COURT: Did you notify anybody else?

A After the car was missing? No, I didn't.

Q Did you notify your insurance company?

A Yes, I did. I'm sorry, I did. I had to notify the insurance company. Excuse me. The police department, then, after, the insurance company.

Q Now, I show you what have been marked Government's Exhibits 33 and 34 for identification.

Now, without telling us what the contents of those documents are, can you tell us what they are?

A One is a towing bill incurred from the --

MR. DIRENZO: Objection to any answer beyond that, your Honor.

THE COURT: Just identify it. It's a bill for towing a car.

THE WITNESS: I'm sorry.

A It's a bill for towing a car.

THE COURT: All right. That is 33?

THE WITNESS: That is 33.

THE COURT: And what is 34?

THE WITNESS: 34 is also a bill for towing a car.

Q Are you the custodian of those bills?

A Yes, I am.

Q If you know, were those bills paid by your company?

A They were.

Q And are those bills kept in the regular course of your business?

A Yes, they are.

Q And is it the regular course of your business to keep such bills after they have been paid?

A Yes, it is.

MR. KENNEY: May I show these two exhibits to defense counsel, your Honor?

THE COURT: You may.

(Pause.)

MR. DIRENZO: May I examine on the voir dire?
They're being offered now, I take it?

MR. KENNEY: Yes, they are.

VOIR DIRE EXAMINATION

BY MR. DIRENZO:

Q Miss Dietrich, where did you say your place of
business is located?

A In Union City, New Jersey.

Q Now, in examining Exhibit 33 for identification,
which you have already described as a towing bill, this
was a charge for a tow of a vehicle to -- is that
Palisades Park, New Jersey?

A Palisades Park, New Jersey, yes.

Q That is not where your place of business is,
is that correct?

A No, it isn't.

Q And exhibiting Government's Exhibit 34 to you,
which you have already described as a towing bill, does
that bill reflect the place to which the vehicle was towed?

A Yes, it does.

Q Where was it towed to?

A It was towed to Berwick, Pennsylvania.

Q Well, isn't the first bill a towing bill from Pennsylvania to Palisades Park?

A The towing bill from Pennsylvania to Palisades Park is to bring the car up to New Jersey.

Q And then it was towed back to Pennsylvania, is that your testimony?

A No. The car was towed to Barwick, Pennsylvania, to the auto body shop and was picked up at the auto body shop by Palisades Towing.

THE COURT: Are they in reverse orders, Mr. DiRenzo?

MR. DIRENZO: That is what I'm -- would your Honor be good enough to look at them?

THE COURT: I think that the witness is better --

THE WITNESS: Yes, I would say they're in reverse orders.

THE COURT: I would suggest we change -- are they put together with a paper clip?

MR. DIRENZO: Yes.

THE COURT: You can change it.

MR. KENNEY: We have no objection.

THE COURT: Are they in proper order now, Miss Dietrich, chronologically?

THE WITNESS: Yes, they have.

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2 MR. DIRENZO: I just want to look at them again,
3 if I may, your Honor.

4 THE WITNESS: Excuse me. This is the first
5 and this is the second. In chronological order, this is
6 the first towing, and this is the second, so this
7 should be No. 33 and this 34.

8 MR. DIRENZO: In order to aid the witness, your
9 Honor, may I show something to her?

10 THE COURT: Certainly.

11 Q You still say that, examining this date on what
12 appears to be 34 now, and this date, which appears to
13 be on 33?

14 A This towing took place before this towing.
15 This is wrong. This is evidently a wrong date.

16 MR. DIRENZO: In other words, we have reversed
17 the numerals, your Honor, and apparently she feels they
18 should be reversed again.

19 THE COURT: Back again?

20 MR. DIRENZO: Yes.

21 Q The reason for this, let's call it a misunder-
22 standing, Miss Dietrich, is because you now say that
23 the date reflected on what appears to be Government
24 Exhibit 34 is an incorrect date, is that correct?

25 A 34 -- the most recent of these bills, okay, is

the Palisades Towing, chronologically.

Q And that now appears to be Exhibit 33.

A 33.

Q But the date on that Palisades Towing bill is the 21st of September.

A September 21st.

Q Now, the towing bill from Pennsylvania appears to be subsequent to the towing bill from New Jersey, is that correct? Is that why you're saying the date is incorrect?

THE COURT: Could you give us any help in this, Mr. Kenney?

MR. KENNEY: I don't think the date on the bills have anything to do with when the car was towed.

MR. DIRENZO: If I may think aloud, if it was towed from Pennsylvania and then towed in New Jersey, the Pennsylvania tow would normally have to be prior to the Jersey tow. That is all I'm saying.

THE COURT: May I see them?

THE WITNESS: Yes, I'm sorry.

MR. DIRENZO: Your Honor recognizes that we did change the exhibit numbers on these.

THE COURT: I'm just trying to find out if they're in order.

2 Well, the dates on them may be the date of the
3 bill, not the date that the job was done, Mr. Direnzo.

4 MR. DIRENZO: Except that the witness, while
5 she was explaining to me, said that the date was wrong.
6 That's why I brought it to the Court's attention.

7 THE COURT: You mean the date was wrong?

8 MR. DIRENZO: She said the date was wrong that
9 was on that bill.

10 THE COURT: Well, she means -- well, let's
11 start over again.

12 Exhibit 33 is a bill from Palisades Towing
13 Corporation, right, dated September 21st? Is that the
14 date the towing was done, or is that the date of the bill?

15 THE WITNESS: September 21st is the date of
16 the bill, that the bill was made out.

17 THE COURT: But not necessarily the date that
18 the job was done?

19 THE WITNESS: Not necessarily, no.

20 THE COURT: Exhibit 34 for identification,
21 Jim's Auto Body Service, Berwick, dated October 22, 1973,
22 is that the date of the bill or the date that the towing
23 was done?

24 THE WITNESS: The date of the bill.

25 THE COURT: Date of the bill. Okay.

2 You may continue, unless somebody else wishes
3 to inquire on the voir dire.

4 Now I suggest that you put the numbers back to
5 where they were originally.

6 MR. KENNEY: Now we offer Government's
7 Exhibits 33 and 34.

8 THE COURT: Any objection aside from the usual
9 objections?

10 MR. MARTIN: I object, if your Honor please.

11 THE COURT: In addition to the usual objections?

12 MR. MARTIN: Yes, your Honor.

13 THE COURT: Come up here and tell me why.

14 (At the bench.)

15 MR. MARTIN: I think it's remote and I think
16 it's totally irrelevant. I think it's highly prejudicial
17 to the defendants. We're putting papers in evidence
18 there now besides the ones that we had that are dated
19 in September and October 1973. This is almost six months
20 from the date of the alleged incident. I think it's
21 highly prejudicial.

22 THE COURT: The witness has said the dates are
23 the dates of the bill, not the dates of the event.

24 MR. MARTIN: I understand that.

25 THE COURT: Objection overruled.

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MR. MARTIN: These are the papers that are going in.

MR. DIRENZO: Can we add to the objection, your Honor, that there was no proof evidenced by these exhibits which would demonstrate that they are for the vehicle that was rented under the Econo-Car rental agreement with Miss Holder.

THE COURT: Ask her, Mr. Kenney.

(In open Court.)

BY MR. KENNEY:

Q Miss Dietrich, can you tell us whether there is any relationship between the car which is represented by Government Exhibit 32 and the towing which is represented by Government's Exhibits 33 and 34 for identification?

A The 1973 Chevrolet wagon.

Q Was that the same car that was rented under the agreement?

A It's the same car that was rented, yes.

Q Did you subsequently see that car with your own eyes; did you see it?

A Yes, I did.

MR. KENNEY: Now we offer Government's Exhibits 33 and 34.

THE COURT: The objections have been made and

overruled.

(Government's Exhibits Nos. 33 and 34 for identification received in evidence.)

Q Now, Miss Dietrich, I show you Government's Exhibit 33 and ask you to take a look at that.

Now, that is a bill that you paid, is that right?

A That is right, yes.

Q And that is for towing?

A That is for towing, yes.

Q And who did you pay?

A I paid Palisades Towing Service.

Q And what is the name of the towing service on the bill?

A Jim's Auto Body Service.

Q And where is Jim's Auto Body Service located, if it says on the bill?

A In Berwick, Pennsylvania.

Q And did you pay Palisades Towing Service for Jim's Auto Body Service?

A Yes, I did.

Q And would you tell us, if you can, where the car was towed to and from where?

A The car was towed to Jim's Auto Body, was towed

from Jim's Auto Body to Palisades Park, New Jersey.

Q I am talking about this bill, which is before you now, and the amount of this bill is how much?

A \$30.

Q And what towing was that in payment for?

A From the place at which the car was found to Jim's Auto Body.

Q Now I show you Government Exhibit 34. Now that is also a bill that you paid, is that right?

A Yes, it is.

Q And who did you pay?

A Palisades Towing Corporation.

Q The same people you paid the other bill?

A Yes.

Q Was that for towing that was done by Jim's Auto Body or by Palisades Towing?

A This was for towing paid by Palisades Towing.

Q And where did Palisades tow the car from and where did they tow it to?

A Palisades towed it.--

MR. DIRENZO: Objection.

THE COURT: Overruled.

A -- from Jim's Auto Body.

Q Would you tell us where they towed it from?

2 A From Jim's Auto Body to Palisades Towing.

3 Q Where is Jim's Auto Body?

4 A In Barwick, Pennsylvania.

5 Q And where is Palisades Towing?

6 A Palisades Park, New Jersey.

7 Q And after it was towed to Palisades Park, did
8 you see the car?

9 A Yes, I did.

10 Q Where did you see it?

11 A At Palisades Park.

12 Q And did you take the car anyplace from there?

13 A Yes, I did.

14 Q Where did you take it?

15 A Back to Union City.

16 Q Is that the same car that you rented Eyleen
17 Holder?

18 A Yes, it is.

19 MR. KENNEY: I have no further questions of
20 this witness.

21 THE COURT: Mr. DiRenzo.

22 CROSS-EXAMINATION

23 BY MR. DIRENZO:

24 Q Miss Dietrich, when did you first discover
25 that this van was missing?

1
2 A Discovered on March 30th, in the morning of
3 the 30th.

4 THE COURT: It's not a van; it's a station
5 wagon, I understand.

6 Q Station wagon?

7 A Station wagon, yes.

8 Q And this station wagon, did you know, after
9 it was returned on the 26th, when it was taken from the
10 lot?

11 A I discovered that it was missing on the morning
12 of the 30th of March.

13 Q In other words, you discovered it missing
14 four days after the return of the vehicle; correct?

15 A It was returned on the 26th.

16 Q Do you take care of the rentals of these
17 various automobiles for Econo-Car?

18 A Yes, I do.

19 Q Do you take care of the vehicles themselves
20 or do you have employees that do that work?

21 A I have employees.

22 Q How many employees do you have?

23 A I have two.

24 Q And on occasion, do you know whether they ever
25 borrow any of your vehicles?

A They do not borrow vehicles unless I am asked.
They do not borrow vehicles, no.

Q Do you permit them to borrow a vehicle on occasion?

A No, I don't.

Q And you don't know of any incidents where any of them might borrow a vehicle without your knowing about it, do you?

A No, I don't.

MR. DIRENZO: I have no further questions.

THE COURT: Mr. Martin.

CROSS-EXAMINATION

BY MR. MARTIN:

MR. MARTIN: May I see the exhibits, please?

MR. KENNEY: I believe the witness has the exhibits.

MR. MARTIN: Thank you.

Q Besides these papers that you have shown us, do you have any other records of any type relating to the events that you have testified to before or today in Court?

A I have an accident report that was submitted to the insurance company.

Q Had you shown that to the United States Attorney

before you testified here today?

A I have it with me. I did not specifically point it out.

Q Did you mention it to the United States Attorney before you testified?

A I don't think I did, no.

Q Can I see it, please?

A Yes, sir.

MR. MARTIN: May I have just one moment, your Honor, to look at it?

(Pause.)

Q Miss Dietrich, did you make an accident report?

A Yes, we did.

Q And is this the copy of the accident report that you made?

A Yes; yes, it is.

Q May I show it to you.

Did you make that report, Miss Dietrich?

A It was made by my secretary. I'm sorry.

Q And did you cause that report to be made?

A Yes, I did.

Q You are the corporation listed there as the owner of the car, are you not?

A That's right.

Q What is the corporation that owned the car?

A Econo-Car.

Q Isn't it Joan D., Inc.?

A Joan D., Inc., d/b/a Econo-Car.

Q It is Joan D., Inc.?

A Yes.

Q And you filed an accident report under Joan D., Inc. to claim damages for the accident?

A D/b/a Econo-Car, yes.

Q Excuse me?

THE COURT: She says doing business as Econo-Car.

Q Did you have an estimate taken for the damages --

THE COURT: Better not put it away. You are being questioned about it.

THE WITNESS: I'm sorry.

Q Did you have an estimate made regarding the amount of damages done to the vehicle?

A No, I didn't. We use an accident report as any kind of a claim submitted to the insurance company.

Q Now, you rented -- you have these bills -- I show you Exhibits 33 and 34. Can you tell me the dates that are on those bills?

A Exhibit 33 is 10/22/73, and Exhibit 34 is

September 21, '73.

Q Isn't it a fact that you made that accident report out in April of 1973?

A The accident report was made out at the time that the car was reported missing.

THE COURT: Is there a date on the accident report?

THE WITNESS: 4/3/73.

THE COURT: April 3, '73.

Q And you were not billed for those other two exhibits until September for one and October for the other; is that correct?

A We were billed in September and October, that is correct.

Q Are those bills for the same car that you reported on the report of April 3, 1973?

A Yes, they are.

Q How long had Miss -- let me give you this. It could possibly help refresh your recollection.

How long had Miss Holder been renting vehicles from you before this agreement which is marked as an exhibit?

A She had been a customer of ours and had rented several cars from us at various intervals. She wasn't --

she had rented from us before.

Q And how long before the particular agreement that is in evidence?

A I do not have a recollection.

Q Don't you have a background record of Miss Holder with her financial responsibility and pedigree?

A I had this, which I exhibited, the identification card.

Q Is that the only record you have?

A This is what I have on her, yes, sir.

Q Does Joan D., Inc., your corporation, maintain permanent records for people who rent cars periodically from you?

A Yes, we do.

Q Do you have any other record for Miss Holder?

A This is what I have for Miss Holder.

Q Maybe I'm not explaining myself --

THE COURT: Is that the permanent record you have for Miss Holder?

THE WITNESS: Yes.

Q Is that the only record you have for Miss Holder?

A This is the only record that I have here.

Q And it is your testimony that there is no other

record or application that she made, giving where she worked, her earnings, credit cards or any other financial security that you people would usually ask for in order to rent a car?

MR. KENNEY: Objection. There is no foundation for what they would usually ask for.

THE COURT: Sustained.

Q When someone comes in to rent a car from you, from your company, do you ask them to fill out a card?

A Yes, we do.

Q On that card do you ask where they bank?

THE COURT: Pardon me. That is the card.

A This is the card.

THE COURT: She has told you that is the card. Isn't that true?

THE WITNESS: Yes, this is the identification card.

Q And that is the only card?

A This is the card we have on them, yes; the permanent card, the permanent record.

Q I ask you to refer to that, and ask you if there is any notation on that card with her banks or credit cards or any financial record.

A This is the information that I have on Miss

Holder on her card right here.

Q I ask you to look at that card, please.

Now, will you kindly read from that card any bank reference that Miss Holder gave you?

A A bank reference? There is no bank reference on this card.

Q Is there any listing of any credit card given by Miss Holder to you?

A There is no credit card.

Q Is there any record of any security deposits that Miss Holder left with your company whenever she rented a vehicle?

A There is no security deposits listed on this card.

Q Would this agreement that is in Exhibit --

MR. MARTIN: Question withdrawn.

Q Would this exhibit that was placed in by the Government concerning the rental of this car you testified to before, was there any cash security deposit given with that rental?

A Yes, there was.

Q How much was it?

A \$120.

Q Was that given by Miss Holder?

2 A Yes, it was.

3 Q Did you return that money to Miss Holder?

4 A Miss Holder received a refund, yes.

5 Q When did you return that money to Miss Holder?

6 THE COURT: Not that money. She got a refund.

7 I assume they deducted the cost of the car.

8 MR. MARTIN: I don't know.

9 THE COURT: Why don't you ask her?

10 MR. MARTIN: I asked if she put up security.

11 THE COURT: That is right.

12 Did you give her the whole security back?

13 THE WITNESS: We gave her a refund --

14 THE COURT: How much?

15 THE WITNESS: -- of \$7.77.

16 Q In other words, when I used the word, "security,"
17 was that the proper word I used, or was it a cash advance
18 that she gave to you?

19 A It was cash advance.

20 Q So it wasn't, in fact, security?

21 A It's --

22 THE COURT: Well now, look, we can get a little
23 quarrelsome. Let's go on to something else.

24 MR. MARTIN: I am not trying to be quarrelsome.

25 THE COURT: Obviously, if you give somebody cash

in advance for a car, it can either be security or a cash advance. It has the same effect, as far as the car rental is concerned.

Now let's go to something else, Mr. Martin, please.

Q Can I see those records, please?

This car was a 1973 Chevrolet car, correct?

A Yes.

Q And it was purchased by your company on February 22, 1973. I will show you this. Is that correct?

A Yes.

Q Is that correct?

A That is correct.

Q So that on the day you rented it to Miss Holder, the car was approximately one month old?

A That is correct.

MR. MARTIN: No further questions.

THE COURT: Mr. Hafetz.

MR. HAFETZ: No cross.

THE COURT: Mr. Hopper.

MR. HOPPER: No cross.

THE COURT: Any redirect?

MR. KENNEY: Yes, your Honor, very short.

March 27

Dietrich-Redirect-recross

1123

REDIRECT EXAMINATION

BY MR. KENNEY:

Q Miss Dietrich, when you received the car back again, was there any damage to it?

A No, there wasn't.

Q I show you Government's Exhibit 32. Is there an indication on that document what the mileage was when the car was returned by Eyleen Holder?

A Yes, there is.

Q And when you received the car from the Palisades Towing, did you check the mileage against that record?

A No, I did not.

Q Did anyone in your company check the mileage?

A No, we did not.

MR. KENNEY: I have no further questions.

THE COURT: You are excused.

MR. MARTIN: Could I have just one more on that point, your Honor, that was raised?

THE COURT: Go ahead.

RECROSS-EXAMINATION

BY MR. MARTIN:

Q It is your testimony that the car was towed, even though there was no damage, is that correct?

A Yes, that is correct.

MR. DIRENZO: May I put one question?

THE COURT: Yes. I think I am going to have one, too.

You go ahead. You can have yours first.

RECROSS-EXAMINATION

BY MR. DIRENZO:

Q There was no damage to the vehicle, correct?

A That is right.

Q And yet it had to be towed from Pennsylvania to Palisades?

A The car was towed, yes.

THE COURT: By "towed," you mean the car was attached to another car, or you sent a driver out to have it brought in?

THE WITNESS: No, the car was attached.

THE COURT: Attached to another car and brought in?

THE WITNESS: Yes.

THE COURT: All right. You are excused.

(Witness excused.)

THE COURT: We will have a short recess.

(Jury left the courtroom.)

THE COURT: Mr. Dizenso and Mr. Hopper, I requested your requests to charge to be filed with me on

2 December 7th. I haven't received them yet and I am
3 working on my charge. I want them by 4:00 o'clock tomorrow
4 afternoon or I won't consider them. You are now twelve
5 days late.

6 MR. KENNEY: Your Honor, may the Government
7 have permission to submit one or two supplemental
8 charges?

9 THE COURT: By 4:00 o'clock tomorrow afternoon.

10 MR. KENNEY: Thank you.

11 (Recess.)
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T5 2 THE COURT: Yes, Mr. Kinney?

3 MR. KINNEY: We have no more business records
4 and we will have Mr. Mann come in for cross-examination
5 at this time.

6 G E O F F R E Y M A T T H E W S M A N N, resumed.

7 (Murray Mogel, attorney for Mr. Mann,
8 takes a seat near the witness chair.)

9 MR. DIRENZO: With the Court's permission, is
10 it all right if Mr. Martin takes him first?

11 THE COURT: Yes.

12 MR. MARTIN: May I proceed, your Honor?

13 THE COURT: Yes.

14 CROSS EXAMINATION

15 BY MR. MARTIN:

16 Q Mr. Mann, you testified now for several hours
17 about many details and many meetings that you had with
18 people during the period of approximately March 20, 1973,
19 through April 5 of 1973? Is that correct?

20 A Yes, sir.

21 Q And you have spoken of meetings and conversations.
22 Do you remember those specific conversations that you had?
23 Do you remember each and every one of them that you testi-
24 fied to?

25 A Not in every detail, no.

Q Is there a lot of what you were talking about, details, that you forgot?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q When you say you don't understand each and every detail, can you explain that for us, please?

A What I spoke on I remembered; what I didn't remember, I didn't speak about.

Q I was questioning you before about some cards for a motel registration. Do you remember that?

A Yes, sir.

Q Do you remember telling me that you couldn't place the date unless you looked at the card and read the date? Was that correct?

A That was what I said.

Q And was that true at the time you told me that?

A Yes.

Q So without the written record to refresh your recollection you can't independently recall those dates? Isn't that a fact?

A Except for one of them.

Q Just for one? But the others you can't?

A I remember one, two or three days; I don't know exactly each card to each date, but I know it has to be

2 within a certain period of dates when I stayed at the
3 motel.

4 Q So when you testified that you stayed at this
5 motel or that motel or that motel, you were not testifying
6 so much as to a specific date, but within a couple of days
7 of that period of time?

8 A Could you rephrase that?

9 Q When you testified that you stayed at the Met
10 Motel on a particular date, let's just say March 28, do you
11 remember that particular date without looking at the card?

12 A Well, I know I had to stay there.

13 Q I understand. But could you tell it was the
14 28th of March without looking at the card?

15 A No.

16 Q Without looking at the card as far as you
17 remember it by yourself, it may have been the 27th or the
18 29th? Is that correct?

19 A On each particular card, yes.

20 Q So that when you tell us that you stayed in a
21 particular motel at a particular time, it is generally
22 within a day or two of that time? Is that correct?

23 A Yes.

24 Q You testified you came up, you drove up yourself
25 from Washington? Is that correct?

1 A Yes.

2 Q And at the time you drove up your reason for
3 coming up is you had received a call from Terry?

4 A Yes.

5 Q Early in the morning. And in response to that
6 call you later drove on up to New York?

7 A Right.

8 Q And that Terry had given you an address to go to?

9 A Yes.

10 Q He had not given you any ideas as to why you
11 were coming up to New York, had he?

12 A No.

13 Q Did he tell you to bring anything with you?

14 A No, he didn't.

15 Q Did you, in fact, when you left Washington to
16 come up to meet with Terry, bring anything with you?

17 A Yes, I did.

18 Q What did you bring with you?

19 A My pistol.

20 Q What kind of a pistol was that?

21 A .32 revolver.

22 Q You had purchased that pistol in Washington,
23 D.C., in January of 1973, from an unknown male for \$35?

24 A Yes.

2 Q You carried that pistol with you from January
3 until the day you came up on the Turnpike?

4 MR. KENNEY: Objection to this line of question-
5 ing.

6 THE COURT: Overruled.

7 Q You carried that pistol with you from January
8 until the day it was taken off you on the Turnpike?

9 A Off and on, yes.

10 Q For your protection?

11 A Yes. D.C. is a rough town.

12 Q Did you also take any ammunition with you?

13 A Yes.

14 Q How much ammunition did you take with you?

15 A Approximately 12 rounds, I guess.

16 Q Isn't it a fact that you had 24 live rounds in
17 a box under your right front seat?

18 A No, it was not full.

19 Q Excuse me?

20 A It was not a full box.

21 Q I said 24.

22 A I don't know how many rounds.

23 Q Did you have a box of ammunition under the right
24 front seat?

25 A Yes.

2 Q And at the time the gun was taken off you the
3 gun was loaded with bullets, was it not?

4 A Yes.

5 Q You also had some ammunition in your pocket,
6 did you not?

7 A Yes, I did.

8 Q How much and where?

9 A One in one of the pockets.

10 Q You also had another one in your rear pocket?

11 A That was the one?

12 Q Incidentally, when you were stopped on the Jersey
13 Turnpike did you sign any papers? I am talking about the
14 day you were coming from Washington to New York, did you
15 sign any documents?

16 A Yes, I believe I did.

17 Q Where did you sign?

18 A At some police station. I know I signed for
19 the bond.

20 Q Did you tell anybody there the reason you were
21 coming to New York?

22 A Yes.

23 Q What did you tell him?

24 A I told him I was coming to visit somebody.

25 Q Did you tell him who you were coming to visit?

2 A I don't remember.

3 Q You didn't tell them you were coming up to rob
4 a mailtruck, did you?

5 A No.

6 Q Let me show you these documents and let me ask
7 you if those documents contain your signature?

8 A The top one does.

9 Q Will you look at the other one, the one in
10 your right hand, and read it over?

11 A Yes.

12 MR. MARTIN: I would like those marked for
13 identification, if your Honor please.

14 (Defendant Vincent McClosky's Exhibits H and
15 I marked for identification.)

16 Q I show you Defendant McCloskey's Exhibit H and
17 ask you if this is the document to which you affixed your
18 signature?

19 A That is my signature.

20 Q I show you this document marked McCloskey's
21 Exhibit I and ask you if this is an accurate statement
22 of what transpired on that day?

23 A Yes.

24 MR. MARTIN: I would like to offer these in
25 evidence.

1
2 MR. KENNEY: May I see them?

3 We have no objection, except for the various
4 underlinings, which I assume were not on the original.

5 MR. DIRENZO: I beg your pardon?

6 MR. KENNEY: I assume these underlinings were
7 not on the original.

8 MR. DIRENZO: No, I just put those on.

9 (Defendant McCloskey's Exhibits H and I for
10 identification received in evidence.)

11 MR. DIRENZO: The Court will instruct the jury
12 that there are two points where there are some lines drawn
13 that were not part of the original document.

14 THE COURT: When, as and if the jury asks to see
15 them.

16 MR. DIRENZO: That is correct.

17 Q After this incident reflected on these exhibits,
18 would you tell us what time you were released?

19 A Around 10 or 11 o'clock that same day, approximately
20 10 or 11.

21 Q Excuse me?

22 A Approximately 10 or 11 o'clock a.m.

23 Q How long have you been held by the police and in
24 court?

25 A I was in the barracks since around, I think it

1
2 was 7 o'clock I was stopped, I believe.

3 Q Do you remember the Trooper's name who arrested
4 you, Trooper Parker?

5 A I don't remember it now.

6 Q Now, when you were arrested, this revolver that
7 is reflected in that record, that was in the open glove
8 compartment in the open side of the car, was it not?

9 A No.

10 Q What is the relevance of where the gun was to
11 this case?

12 MR. MARTIN: It is in evidence.

13 Q I believe, Mr. Mann, that you testified when
14 the United States Attorney introduced a record that it was
15 a document that you had signed when you pleaded guilty to
16 murder second in this case? Do you remember that?

17 MR. MARTIN: May I see that exhibit, please?

18 Q Is this the document?

19 A Yes, sir.

20 MR. KENNEY: That is Government's Exhibit 13
21 for identification.

22 MR. MARTIN: In evidence?

23 MR. KENNEY: It has never been moved in
24 evidence. However, we have no objection.

25 MR. MARTIN: I would like to offer it in

1
2 evidence.

3 (Government's Exhibit 13 for identification
4 received in evidence as Defendant McCloskey's
5 Exhibit J.)

6 Q That is your signature on there, Mr. Mann?

7 A That is it.

8 Q This paper is dated August 28, 1973. It is
9 addressed to Robert Mitchell, who, I presume, was your
10 attorney at that time?

11 A Yes, sir.

12 Q And it says:

13 "Your client, Geoffrey Matthews Mann, has
14 indicated a desire to plead guilty to second degree murder,
15 a crime punishable by a sentence of up to life imprison-
16 ment in satisfaction of the indictment in the above-
17 entitled matter. The government will agree to a severance
18 and will accept such a plea following the trial of the co-
19 defendants, provided Mann testifies fully and truthfully
20 as a government witness at trial."

21 Is that correct? Do you remember that?

22 A Yes.

23 Q And then the government goes on to indicate
24 in there that they would notify the Court as to whether --

25 THE COURT: Why don't you read it, instead of

summarizing it?

Q Then the letter goes on:

"As is our practice, we will consent to the dismissal of the open counts remaining in the indictment at the time of the sentence and make known to the sentencing judge the extent of the cooperation offered and given by your client.

"It should be clearly understood, however, that we consider the offense charged to be most serious and deserving of a very substantial term of imprisonment. We will take this position at the time of sentence.

"If your client desires to plead guilty to second degree murder with the full understanding of the government's position as set forth above, kindly sign and have your client sign as indicated below."

Did you read this before you signed it?

A Yes.

Q And did your attorney explain it to you?

A Yes.

Q Now, after this was signed, you made another deal with the government? Isn't that correct?

A No.

Q Well, in fact, didn't you appear in this court

on September 17 and take a plea to one count in the indictment -- question withdrawn.

Do you remember appearing in this court on September 17 and making a plea to the indictment, not all of the counts, but making some plea to the indictment?

A Yes. I don't know what date it was.

Q You don't remember the date?

A Yes, but it sounds right.

MR. KENNEY: We stipulate that was the day, your Honor.

Q Now, on that day isn't it a fact that you pleaded guilty to murder in the second degree?

A Yes.

Q Isn't it a fact that count 1, which is the conspiracy count, and count 3, which is the assault count, were then dropped against you?

THE COURT: No, that is not so.

MR. MARTIN: It is not so?

THE COURT: Of course not, and the letter doesn't say that.

MR. MARTIN: Well, this is subsequent to the letter.

THE COURT: Obviously not, Mr. Martin.

2 MR. MARTIN: The letter says there will be an
3 acceptance of a plea following the trial.

4 THE COURT: You said that the counts were
5 dropped, and I said obviously not, and you know they were
6 not dropped, or you should know.

7 Q Were you sentenced before the trial of this
8 action?

9 A No.

10 Q Did you plead guilty before the trial of this
11 action?

12 A Yes.

13 Q This letter says the government will agree to a
14 severance and will accept such a plea following the trial
15 of the co-defendants, provided Mann testifies fully and
16 truthfully as a government witness at trial.

17 Is that correct?

18 A That is what it says.

19 Q So that the original agreement was that you
20 would be granted a severance and you would be allowed to
21 plead after the trial of the co-defendants? Is that
22 correct?

23 A If that is what it says in the sheet.

24 Q But actually what happened is that you pleaded
25 guilty to murder 2 in September and before the trial?

1
2 Is that correct?

3 A Yes.

4 Q Now, are you expecting that count 1, the con-
5 spiracy count, will be dropped against you?

6 A Yes.

7 Q Have you been promised that by the government?

8 A Yes, I was told that the others would not be
9 prosecuted.

10 Q And that conspiracy count is for five years
11 maximum?

12 A I don't know.

13 Q Were you also promised that the third count of
14 the indictment, the assault, would be dropped against you
15 by the government?

16 A Yes.

17 Q You knew, did you not, that the sentence on the
18 third count of assault is a mandatory 25 years imprison-
19 ment? You were aware of that?

20 A No.

21 Q You know that now, do you not?

22 A You just told me.

23 Q And you believe it?

24 A Yes, you are a lawyer.

25 Q And you know that the second count of the indict-

1 ment that you were charged with, of murder 1, has a man-
2 datory life sentence? Did you know that?
3

4 A I knew that.

5 Q And you know now that on the plea that you
6 have taken to murder in the second degree, that the
7 sentence is from any time till life? Isn't that correct?
8

9 A Up to and including, yes.

10 Q And you are hoping by the terms of your agree-
11 ment that if you cooperate with the government that the
12 Judge will take that into consideration when you come up
13 for sentencing?

14 A Yes.

15 Q You are hoping, of course, that you will get
16 the lightest possible sentence within the Judge's dis-
17 cretion?

18 A Yes.

19 Q And you know that the Judge can sentence you
20 any time, say, from one year to life? Isn't that correct?

21 A That is true.

22 Q And you are cooperating?

23 A Yes.

24 Q You testified that you brought Harry Johnson
25 into this so-called scheme? Is that accurate?

 A That is true.

mp16

Mann-cross

1484a

2 Q And Harry Johnson was your friend?

3 A Yes.

4 Q Did you know that Harry Johnson was permitted
5 to plead to one count in this indictment?

6 A I was told, yes.

7 Q Do you know what plea that was?

8 A I believe it was conspiracy. I am not sure.

3 9 Q So that your friend, Harry Johnson, was per-
10 mitted to plead guilty to just one count of conspiracy?
11 Is that right?

12 A As far as I know.

13 Q And that the maximum sentence he can get would
14 be five years? Are you aware of that?

15 A Yes, you just told me.

16 Q And that he can get from no time to five years?
17 Are you aware of that?

18 A Yes.

19 Q And this is the same Harry Johnson who was
20 running around with you and Myers and Chester, hopping in
21 and out of cars as you testified at these various meetings?

22 A True.

23 Q And this is the same Harry Johnson who you placed
24 downtown in the Wall Street area on April 5, 1973? Isn't
25 that correct?

1
2 A That is correct.

3 Q How do you feel about testifying against your
4 friend Harry Johnson?

5 MR.KENNEY: Objection. He is not testifying
6 against Harry Johnson.

7 THE COURT: Sustained. He is not testifying
8 against Harry Johnson.
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Q Going back to Harry Johnson on another tack, I believe there was some testimony in the record, in your direct, when you testified on direct examination, that you and Harry were coming up here on some business; is that an accurate statement?

A That is true, yes.

Q Now, will you tell us what you said to Harry and what Harry said to you about this business you were coming up to in New York?

A I told Harry that Chester had informed me that he was part of a broad organization, and that they also had legitimate enterprises, because Chester told me that perhaps they would want to open up a branch of some legitimate business in D.C., but they needed somebody with a clean record, good, upstanding in the community. So that is when I thought of Harry.

Q Where had you gotten this information from about the legitimate business? Who told you this?

A Chester Crawford.

Q When did Chester Crawford tell you this?

A During our conversations when I first came up here.

Q When you first came up he told you this?

A Yes, when he was talking about -- this is all

part of the organization.

Q Do you remember any specific conversation when he told you this, any day he told you this?

A 22nd. He told me something about the organization itself on the 21st. When I first came up, you know, on the 22nd.

Q Who else was with you when he told you about this organization?

A Well, this particular thing with Harry, just Chester and myself, but Terry Myers was also in the car at another time.

Q And did Terry hear this conversation about the legitimate business?

A Yes, I believe so.

Q When you came up, let me go back over the chronology, you came up and met Terry and Paul Crawford were here; is that correct?

A That is correct.

Q And then a series of events happened over a few days, and then you and Terry -- I'm sorry, you and Terry and Paul returned to Washington?

A Yes, that's true.

Q And after this, you spoke to Harry Johnson about coming up to enter into a possible legitimate

business?

A Yes.

Q Can you tell me what that legitimate business was?

A Chester informed me that they had business dealings with slot machines and things of that order, and he especially desired that after the job was over, and we had enough money, to set up some type of business of that sort in D.C.

Q Did he say he had a legitimate business going or that --

A He said the organization did, was part of it.

Q -- or did he say that you and Harry and Terry and Chester and Turner were going to rob a mail truck to get the money to set up a legitimate business? Which did he say?

A He said that they already had a -- the organization already had this, but some of the proceeds that they were going to get, they were going to funnel to us to start another one in D.C.

Q And did you know, did he tell you any specifics of this legitimate business that was supposed to be started in Washington, D.C.?

A No, it was all -- wasn't even the planning stage,

really. Just talking about it.

Q Let's go back to another conversation that you had with Chester about a candy store and an apartment house. Do you remember that conversation?

A Yes.

Q Do you remember when that took place?

A One of the times we were riding around the site. I don't remember the exact date.

Q You don't know what date?

A I believe it was during that second week we were up here.

Q Sometime during the second week you were up here?

A Right.

Q You can't pin the date down, though, can't pin the time down?

A It would have to be between 1:00 o'clock and 4:00 o'clock.

Q Why?

A That's the times we were running around the site. We didn't have anything to do, until we met at Katz' delicatessen.

Q Every day you would run around the site and drop off at Katz' delicatessen?

A Yes.

Q How many times did you drop off at Katz' delicatessen?

A Altogether?

Q Yes.

A I'd say six times.

Q How many the first week?

A Let's see. Once.

Q How many the second week?

A Four days.

Q This candy store that Chester said he owned, can you tell us where it was? I'm not asking you for the exact street. Was it downtown, Williamsburg?

A In the Williamsburg area.

Q Was it next to this kosher delicatessen where you used to meet?

A No. No, the kosher delicatessen was on South 3rd. Where we used to meet, you said?

Q Right.

A No, no.

Q There's been some testimony, let me see if I can set a background for you. There's been some testimony that you met several times on South 3rd Street in the Williamsburg section; is that correct?

A Right.

Q And there's also been some testimony, as I understand it, that there was a kosher delicatessen on the corner there.

A Yes, there was.

Q Was the candy store anywhere near that?

A Yes, I believe it was in a mile radius, but I don't remember exactly where it was. In that general area.

Q Do you know where Havemeyer Street is?

A Haven't the slightest idea.

Q Have you ever been on Havemeyer Street?

A I don't know.

Q What did Chester say exactly about the candy store?

A He said that he owned it and he was renting it out to somebody in there. I didn't go into it. He went in there to get some money.

Q Did you ask whether that was a legitimate business?

A No, I didn't.

Q How about the apartment house he said he owned, can you tell us where that was?

A It was either on that block or the next block

over from that delicatessen.

Q What kind of a house was it?

A It wasn't anything luxurious.

Q How many stories?

A I think four or five. I think. We weren't there that long.

Q What color? Yellow? Brick red?

A Brick, that kind of reddish, you know it's been for years, that color brick.

Q Did he tell you that was a legitimate business?

A I gather all of it was legitimate. I just thought that was his income, like he bought it and just, you know, lease it out.

Q Chester told you he was a member of a criminal family; isn't that correct?

A Yes, it is.

Q And that he was lining up outside talent, new faces to pull jobs up in New York?

A That's what he told.

Q Did he say "job" or "jobs"?

A He said jobs.

Q Jobs?

A Yes.

Q More than one?

A Right.

Q What other jobs did he discuss with you while you were here?

A Just -- nothing with me, particularly, about me doing anything except hijacking. That was his main thing; he said they were professional hijackers.

Q Chester said he was a professional hijacker?

A Right. He said that was their whole crew --

Q And did Chester ask you --

THE COURT: Let him finish his answer.

MR. MARTIN: I'm sorry.

A He said that his whole crew were hijackers, that was their main thing. They didn't know anything about armed robbery.

MR. DIRENZO: I ask that it be stricken.

THE COURT: Overruled.

Q I assume from your answer, though, that you knew about armed robbery; is that accurate?

A I was familiar with it.

Q Isn't it a fact that the reason he brought you in with Terry was to have a couple of armed robbers?

A Well, Terry brought me in.

Q Terry brought you in.

Would you call Terry an armed robber?

A He has been accused of it.

Q Would you consider yourself an armed robber?

A I have been accused of it, too.

Q Where did you get your experience?

A Where did I get my experience?

Q Yes.

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Did you ever commit an armed robbery?

A Armed, no; not armed.

Q You never committed an armed robbery?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q Did you ever attempt a robbery?

A Yes.

Q Tell us the circumstances of that.

THE COURT: Sustained.

MR. KENNEY: Unless it's related to this case,
we would object.

MR. MARTIN: May I inquire on the question of
his credibility, your Honor?

THE COURT: He said yes he has attempted, but
the circumstances are immaterial.

Q How many times did you attempt robberies?

MR. KENNEY: Objection.

THE COURT: Sustained.

Q On June 2, 1973, did you get three years' parole for attempted robbery?

A No.

Q Excuse me?

A Not 1973, no.

Q I'm sorry. That is my error, Mr. Mann.

On July 25, 1969 -- I'm sorry -- on June 2, 1970, were you sentenced to three years on parole for an attempted robbery?

A I was convicted of three years. I don't remember what year. I forgot what year it was.

Q But you were sentenced to three years on parole for that?

A Right.

Q And did you also receive three years in the Department of Correction in 1969 for attempted robbery?

A That's all the same thing.

Q Isn't it a fact that in Prince George County in Maryland you were sentenced to three years and served fourteen months for an attempted robbery?

THE COURT: What year?

MR. MARTIN: 1969.

THE COURT: Let me see the sheet. It's all the same thing, as I understand it.

It's the same one, Mr. Martin. One is the imposition of sentence and one is the reception at the place of incarceration. They're not two separate --

MR. MARTIN: I was referring to the other exhibit, your Honor, also; the exhibit that is in evidence.

THE COURT: There is only one conviction for attempted robbery, sentence was imposed on July 24, 1969, for three years, and he was paroled on June 30, 1970.

Q Have you read up on armed robbery?

A Have I read --

Q Have you done any reading on armed robbery?

THE COURT: Yes, he went to the University of Wisconsin. Next question.

Q Let's go to April 5th. Will you recapitulate your testimony? I believe it was sometime in the afternoon -- I don't know the exact time -- but you went to Katz' delicatessen, as I understand it, or as I remember it, with Chester, Harry, Terry and yourself.

Is that accurate?

A No.

2 Q Will you tell me who went there, if you remember?

3 A Everybody but Terry was there.

4 Q Everybody but Terry?

5 A Right.

6 Q The three of you first arrived at Katz' without
7 Terry?

8 A Right.

9 Q What time was this, approximately?

10 A Approximately 5:00 o'clock.

11 Q When had you last seen Terry before 5:00 o'clock
12 on that day?

13 A On that day, approximately 2:00 something;
14 early afternoon.

15 Q Approximately 2:00?

16 A Yes, early afternoon.

17 Q And where was he at 2:00 o'clock when you saw
18 him?

19 A The last time I saw him he was going to a
20 parking lot, getting his car.

21 Q Was he alone?

22 A He was.

23 Q And who else was with you when you last saw
24 him at 2:00 o'clock?

25 A Harry and Chester.

this time Chester was also someplace else; is that correct?

A Yes.

Q Now, as between you and Harry, were you together during this three-hour interval?

A Yes, the best of my recollection, yes.

Q Well, how is your recollection? Do you remember?

A Yeah. I believe we were together.

Q I'm talking about April 5, 1973, between 2:00 and 5:00 p.m. in the afternoon. Were you and Harry together all during that period of time?

A I would say, yes.

Q Now, for how long during that period of time was Chester gone?

A Perhaps two or three times that morning, five minutes at a time.

Q And did he drive his car away?

A No, no. The car was stationary.

Q When you just told us before that he drove around midtown during this time, what did you mean by that?

A What did I mean by him driving around?

Q Yes.

Q Between 2:00 o'clock and 5:00 o'clock, was Chester and Harry continuously with you?

A Yes.

Q So that none of them -- no one of those two left your side during that three-hour period of time?

A Except for a couple of minutes. Somebody might have gone to the store or restroom or something like that.

Q This is what I want to know.

A Oh. I'm saying it might be but I don't remember offhand who went to the bathroom.

Q Well, aside from going to the bathroom, did Chester leave your group of three at any time that afternoon between 2:00 and 5:00?

A He made a couple of stops somewhere during the city, but --

Q And you were not with him when he made those couple of stops; is that correct?

A No, I wasn't.

Q So it comes down that some of this time between 2:00 and 5:00 you were alone with Harry; is that correct?

A Yes.

Q And that Terry was someplace else, and during

1
2 A I meant that he was in the car, we were riding
3 around.

4 Q Oh, come on, Mr. Mann, you know what I'm
5 talking --

6 THE COURT: Now wait a second.

7 MR. MARTIN: I'm sorry. Question withdrawn.

8 THE COURT: Put a question.

9 Q Is it your testimony, then, that Chester Mann --

10 MR. MARTIN: Question withdrawn.

11 Q Is it your testimony, then, that Chester
12 Crawford left you periodically, left you and Harry period-
13 ically during the period from 2:00 o'clock until 5:00
14 o'clock on April 5th?

15 A Yes.

16 Q When he came back, if he came back, did he
17 tell you where he had gone or what he had done?

18 A No.

19 Q Did you ask him?

20 A No.

21 Q And yet it's your testimony that you were
22 planning a job for that afternoon?

23 A The job had already been planned.

24 Q I see.

25 Was he taking care of last minute details for

U.S. COURT OF APPEALS:SECOND CIRCUIT

Index No.

U.S.A.,

Appellee,

against

Affidavit of Personal Service

CARROLL, et al,

Defendants-Appellants.

STATE OF NEW YORK, COUNTY OF NEW YORK

ss.:

I, James Steele, being duly sworn,
deposes and says that deponent is not a party to the action, is over 18 years of age and resides at
250 West 146th Street, New York, New York
That on the 10th day of June 1974 at Foley Square, New York

deponent served the annexed

Appellants Brief

upon

Paul J. Curran-U.S. Attorney Southern District-Attorney for Appellee

the in this action by delivering ² true copy^{ies} thereof to said individual
personally. Deponent knew the person so served to be the person mentioned and described in said
papers as the Attorney(s) herein,

Sworn to before me, this 10th
day of June 1974

James Steele
Print name beneath signature

JAMES STEELE

ROBERT T. BRIN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31 - 0418950
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1975